

Michigan Register

Issue No. 4— 2003 (Published March 15, 2003)



GRAPHIC IMAGES IN THE MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19th century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

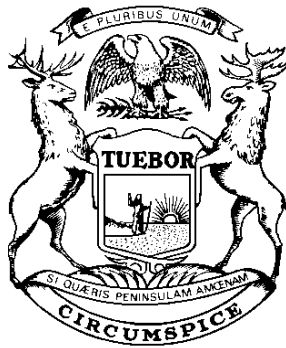
East Elevation of the Michigan State Capitol:

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

Michigan Register

Published pursuant to § 24.208 of
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(This issue, published March 15, 2003, contains
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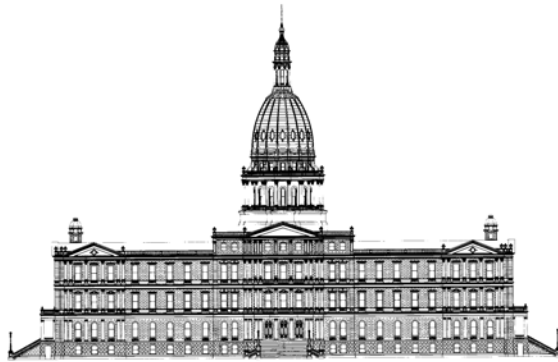
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Brian D. Devlin, Director, Office of Regulatory Reform; **Deidre O'Berry**, Administrative Assistant for Operations; **James D. Lance**, Administrative Assistant for Publications.

Jennifer M. Granholm, Governor



John Cherry, Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

MCL 24.208 states:

Sec. 8 (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
 - (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
 - (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
 - (d) Proposed administrative rules.
 - (e) Notices of public hearings on proposed administrative rules.
 - (f) Administrative rules filed with the secretary of state.
 - (g) Emergency rules filed with the secretary of state.
 - (h) Notice of proposed and adopted agency guidelines.
 - (i) Other official information considered necessary or appropriate by the office of regulatory reform.
 - (j) Attorney general opinions.
 - (k) All of the items listed in section 7(1) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217.
- (2) The office of regulatory reform shall publish a cumulative index for the Michigan register.
 - (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
 - (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
 - (5) An agency shall transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

MCL 4.1203 states:

Sec. 203. (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.

- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of Michigan register at a price determined by the office of regulatory reform not to exceed cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the Office of Regulatory Reform for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Office of Regulatory Reform is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Office of Regulatory Reform, Department of Management and Budget, 1st Floor Ottawa Building, 611 West Ottawa, Lansing, MI 48909.

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$110.00 per year. Submit subscription requests to: DMB, Office of Administrative Services, P.O. Box 30026, 320 South Walnut Street, Lansing, MI 48909. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reform (517) 241-1679.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reform: www.state.mi.us/orr

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reform Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Brian D. Devlin, Director
Office of Regulatory Reform

2003 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2003	February 1, 2003
2	February 1, 2003	February 15, 2003
3	February 15, 2003	March 1, 2003
4	March 1, 2003	March 15, 2003
5	March 15, 2003	April 1, 2003
6	April 1, 2003	April 15, 2003
7	April 15, 2003	May 1, 2003
8	May 1, 2003	May 15, 2003
9	May 15, 2003	June 1, 2003
10	June 1, 2003	June 15, 2003
11	June 15, 2003	July 1, 2003
12	July 1, 2003	July 15, 2003
13	July 15, 2003	August 1, 2003
14	August 1, 2003	August 15, 2003
15	August 15, 2003	September 1, 2003
16	September 1, 2003	September 15, 2003
17	September 15, 2003	October 1, 2003
18	October 1, 2003	October 15, 2003
19	October 15, 2003	November 1, 2003
20	November 1, 2003	November 15, 2003
21	November 15, 2003	December 1, 2003
22	December 1, 2003	December 15, 2003
23	December 15, 2003	January 1, 2004
24	January 1, 2004	January 15, 2004

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**ADMINISTRATIVE RULES
FILED WITH THE SECRETARY OF STATE**

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(f) Administrative rules filed with the secretary of state.”

ADMINISTRATIVE RULES

ORR # 2000-057

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY STANDARDS

Filed with the Secretary of State on February 19, 2003.
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by sections 19 and 21 of 1974 PA 154 and Executive Reorganization Order No. 1996-2, MCL 408.1019, 408.1021, and 445.2001)

R 408.41401, R 408.41455, R 408.41456, R 408.41461, R 408.41462, R 408.41463, R 408.41464, R 408.41465, R 408.41466, R 408.41467, R 408.41471, R 408.41472, R 408.41474, R 408.41475, R 408.41476, R 408.41477, R 408.41478, R 408.41479, R 408.41481, and R 408.41483 of the Michigan Administrative Code are amended and R 408.41454 is rescinded, and R 408.41405 and R 408.41410 are added to the Code as follows:

PART 14. TUNNELS, SHAFTS, CAISSONS, AND COFFERDAMS

R 408.41401 Scope.

Rule 1401. This part applies to the construction, modification, and major repair of tunnels, shafts, caissons, chambers, passageways, and cofferdams, any other aspect of tunnel construction, and the use and maintenance of equipment. This part does not apply to routine maintenance of an existing structure; excavation and trenching operations as prescribed by R 408.40901 et seq., construction safety standard Part 9. Excavation, trenching and shoring; or underground electrical transmission and distribution lines as prescribed in R 408.41601 et seq., construction safety standard Part 16. Power transmission and distribution. This section also applies to cut-and-cover excavations which are both physically connected to ongoing underground construction operations within the scope of this section and covered in such a manner as to create conditions characteristic of underground construction.

R 408.41405 Applicability.

Rule 1405. (1) These rules apply to pipe augering operations with the exception of R 408.41461 and R 408.41463.

R 408.41410 Adoption of standards by reference.

Rule 1410. (1) The standards specified in this rule, except for the standards specified in subrules (2) and (3) of this rule, are adopted by reference.

(a) The following standards are available from the United States Government Bookstore, Patrick V. McNamara Federal Building, Suite 160, 477 Michigan Avenue, Detroit, Michigan 48226; or via the internet at web-site: <http://bookstore.gpo.gov>; or at the Michigan Department of Consumer and Industry

Services, MIOSHA Standards Division, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, at a cost as of the time of adoption of these amendments, as stated in this subdivision.

(i) The provisions of 30 C.F.R. Parts 1-199, Mineral Resources, revised July 1, 2000. Cost: \$52.00.

(ii) The provisions of 42 C.F.R. Part 84, Public Health Service, revised October 1, 2001. Cost: \$65.00.

(b) The following standards are available from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112; telephone number 1-800-854-7179; or via the internet at web-site www.global.ihs.com; or at the Michigan Department of Consumer and Industry Services, MIOSHA Standards Division, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan 48909-8143, at a cost as of the time of adoption of these amendments, as stated in this subdivision.

(i) National fire protection association standard NFPA 70: Standard for “National Electrical Code,” 1999 edition. Cost: \$98.00

(ii) American welding society (AWS) standard IHS AWSC “AWS-Structural Welding Code,” 2000 edition. Cost: \$350.00

(2) The bureau of construction codes, elevator safety board 1967 PA 227, MCL 408.801 et seq. R 408.8511 to R 408.8524 are referenced in these rules and are available from the Michigan Department of Consumer and Industry Services, Bureau of Construction Codes, 2501 Woodlake Circle, Okemos, Michigan 48909; or via the internet at web-site: www.michigan.gov/cis; or from the Michigan Department of Consumer and Industry Services, MIOSHA Standards Division, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, at no cost as of the time of adoption of these amendments.

(3) The following occupational safety and health administrative standards are referenced in these rules and are available from the Michigan Department of Consumer and Industry Services, MIOSHA Standards Division, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143; or via the internet at web-site: www.michigan.miosha, at no cost as of the time of adoption of these amendments:

(a) Construction safety standard Part 1. General Rules, being R 408.40101 et seq. of the Michigan administrative code.

(b) Construction safety standard Part 6. Personal Protective Equipment, being R 408.40601 et seq. of the Michigan administrative code.

(c) Construction safety standard Part 7. Welding and Cutting, being R 408.40701 et seq. of the Michigan administrative code.

(d) Construction safety standard Part 9. Excavation, Trenching, and Shoring, being R 408.40901 et seq. of the Michigan administrative code.

(e) Construction safety standard Part 10. Lifting and Digging Equipment, being R 408.41001 et seq. of the Michigan administrative code.

(f) Construction safety standard Part 11. Fixed and Portable Ladders, being R 408.41101 et seq. of the Michigan administrative code.

(g) Construction safety standard Part 16. Power Transmission and Distribution, being R 408.41601 et seq. of the Michigan administrative code.

(h) Construction safety standard Part 17. Electrical Installations, being R 408.41701 et seq. of the Michigan administrative code.

(i) Construction safety standard Part 18. Fire Protection and Prevention, being R 408.41801 et seq. of the Michigan administrative code.

(j) Construction safety standard Part 21. Guarding of Walking and Working Areas, being R 408.42101 et seq. of the Michigan administrative code.

(k) Construction safety standard Part 22. Signals, Signs, Tags, and Barricades, being R 408.42201 et seq. of the Michigan administrative code.

(l) Construction safety standard Part 27. Blasting and Use of Explosives, being R 408.42701 et seq. of the Michigan administrative code.

- (m) Construction safety standard Part 45. Fall Protection, being R 408.44501 et seq. of the Michigan administrative code.
- (n) Occupational health standard Part 451. Respiratory Protection, being R 325.60051 et seq. of the Michigan administrative code.
- (o) Occupational health standard Part 665. Underground Construction, Caissons, Cofferdams, and Compressed Air, being R 325.62991 et seq. of the Michigan administrative code.

R 408.41454 Rescinded.

R 408.41455 Definitions; A to H.

- Rule 1455. (1) “Atmospheric pressure” means the pressure of air at sea level, usually 14.7 p.s.i.a. (1 atmosphere) or zero p.s.i.g.
- (2) “Auger tunnel” means a tunnel that is excavated by use of a continuous flight auger system, with or without a sleeve or other type of liner.
 - (3) “Bulkhead” means an airtight structure separating the working chamber from free air or from another chamber under a lesser pressure than the working pressure.
 - (4) “Caisson” means either a generally vertical foundation unit below grade or a chamber placed in the ground or water for excavating earth and in which it is possible for a person to work under air pressure greater than atmospheric pressure to excavate material below water level.
 - (5) “Cofferdam” means a temporary structure used to control the flow of water and other material during construction operations.
 - (6) “Competent person” means a person who is experienced and capable of identifying existing and predictable hazards in the surroundings or under working conditions which are hazardous or dangerous to an employee, and who has the authority and knowledge to take prompt corrective measures to eliminate hazards.
 - (7) “Compressed air” means an environment that has a pressure greater than atmospheric pressure.
 - (8) “Decanting” means a method used for decompressing under emergency circumstances. In this procedure, the employees are brought to atmospheric pressure with a very high gas tension in the tissues and then immediately recompressed in a second and separate chamber or lock.
 - (9) “Emergency lock” means a lock designed to hold and permit the quick passage of an entire shift of employees.
 - (10) “Escape-only respirator” means a respirator intended to be used only for emergency exit.
 - (11) “High air” means air pressure used to supply power to pneumatic tools and devices.

R 408.41456 Definitions; M to W.

- Rule 1456. (1) “Man lock” means a chamber through which employees pass from 1 air pressure environment into another.
- (2) “Materials lock” means a chamber through which materials and equipment pass from 1 air pressure environment into another.
 - (3) “Occupied tunnel” means any tunnel entered by 1 or more employees.
 - (4) “Pressure” means a force acting on a unit area, usually shown as pounds per square inch (p.s.i.).
 - (5) “Qualified person” means a person who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work, or the project.
 - (6) “Safety screen” means an airtight and watertight diaphragm placed vertically across the upper part of a compressed air tunnel between the face and bulkhead in order to restrain sudden flooding of the crown

of the tunnel between the safety screen and the bulkhead, thus providing a means of refuge and exit from a flooding or flooded tunnel.

(7) “Shaft” means a vertical or inclined opening excavated below ground level, that is for the purpose of tunnel operations.

(8) “Tunnel” means a generally horizontal excavation or facility more than 14 inches in diameter, width, or height and more than 6 feet in length below ground or water. Facilities used for the acquisition of minerals, ores, and fossil fuels, which are commonly known as mines, are excluded from this definition.

(9) “Working chamber” means the space or compartment under air pressure in which the work is being done.

R 408.41461 Advance notice of tunnel excavation.

Rule 1461. (1) Before the start of a tunnel, as defined in R 408.41456, which is 24 inches or more in diameter, height or width, and which will be occupied by an employee, a report prepared by the employer performing the tunnel excavation shall be sent to the Michigan Department of Consumer and Industry Services, Construction Safety Division, 7150 Harris Drive, P.O. Box 30645, Lansing, Michigan 48909-8145, in addition to the following civil authorities in the area: hospital, police department, fire department, and sheriff department. The report shall contain all of the following information:

(a) Name of contractor or contractors.

(b) Starting date.

(c) Length of tunnel.

(d) Diameter of cut.

(e) Finished diameter.

(f) Number of shafts.

(g) Depth of shafts.

(h) Location of shafts.

(i) Method of tunneling.

(j) Maximum working pressure in tunnel or shaft.

(k) Type of primary liner.

(l) Number of shifts.

(m) Projected completion date.

(n) Projected maximum work force within tunnel.

(2) Parties notified pursuant to subrule (1) of this rule shall be notified when the work has been completed.

(3) If, after the start of any tunnel project, a tunnel or shaft that the employer has shown to be constructed, modified, or repaired under atmospheric conditions requires the tunnel to be pressurized, then the employer shall notify the Construction Safety Division at the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, P.O. Box 30645, Lansing, Michigan 48909-8145, 24 hours before allowing employees to enter the tunnel.

(4) If the work operations of any occupied tunnel projects are discontinued for 30 consecutive days or longer, then the employer shall notify the construction safety division at the Michigan department of consumer and industry services, 24 hours before resuming work operations on the tunnel project.

R 408.41462 Safety generally.

Rule 1462. (1) The employer shall inform oncoming shifts of any hazardous occurrences or conditions that have affected or might affect employee safety, including liberation of gas, equipment failures, earth or rock slides, cave-ins, floodings, fires, or explosions.

- (2) A safe means of egress and access to all work areas shall be provided and maintained free of hazards.
- (3) Form scrap material, lumber that has protruding nails, and all other debris shall be kept cleared from the work areas, passageways, stairs, locks, and change houses.
- (4) Combustible debris shall be removed daily during the course of construction.
- (5) If a haulage roadbed consists of track and ties, then the employer shall provide a walkway. The walkway shall be a minimum of 2 2-inch planks, side by side, abutted, joined, and secured to a tie or other equivalent means. If space is not adequate for 2 2-inch by 10-inch planks, then the walkway shall be as wide as space permits.
- (6) When work is not being performed, access to an underground opening shall be covered, bulkheaded, fenced off, or restricted by gates or doors and appropriately posted.
- (7) Any section of tunnel that is not in use shall be barricaded to prevent ingress by an unauthorized employee.
- (8) Construction of a trench, manhole, or other opening for use in a tunnel or shaft operation shall be as prescribed in R 408.40901 et seq., construction safety standard Part 9. Excavation, Trenching, and Shoring and R 408.44501 et seq., construction safety standard Part 45. Fall Protection.
- (9) The power source to a tunneling machine shall be disconnected or locked out when an employee is working in the area of the cutting head or performing maintenance work on the tunneling machine where motion could cause an injury.
- (10) An area subject to subsidence that is hazardous to an employee shall be fenced and appropriately posted.
- (11) Each operation shall have a check-in and check-out system that will provide positive identification of an employee by number or name and will identify the location of each employee who is underground. An accurate record shall be kept on the surface. However, a check-in and check-out system is not required when the construction of underground facilities that are designed for human occupancy has been completed so that the permanent environmental controls are effective and the remaining construction activity will not cause any environmental hazard or structural failure within the facilities.
- (12) A ladder or stairway that is provided in a shaft, caisson, or steep incline shall be as prescribed in R 408.41101 et seq., construction safety standard Part 11. Fixed and Portable Ladders and R 408.42101 et seq., construction safety standard Part 21. Guarding of Walking and Working Areas.
- (13) An employer shall establish and coordinate with the employees an accident prevention program and a safety training program as prescribed in R 408.40101 et seq., construction safety standard Part 1. General Rules.
- (14) All employees shall be instructed in the recognition and avoidance of hazards that are associated with all of the following underground construction activities:
 - (a) Air monitoring.
 - (b) Ventilation.
 - (c) Illumination.
 - (d) Communications.
 - (e) Flood control.
 - (f) Mechanical equipment.
 - (g) Personal protective equipment.
 - (h) Explosives.
 - (i) Fire prevention and protection.
 - (j) Emergency procedures, including evacuation plans and check-in and check-out systems.
- (15) The employer shall issue each employee a copy of the project's general safety rules before the employee commences work at the project.

- (16) Each employer shall designate a qualified person who is responsible for administering the safety program. A written record shall be maintained of the safety training program.
- (17) Before an employee enters a tunnel where the atmosphere may be hazardous due to a condition such as a deficiency of oxygen, or may be toxic in excess of the maximum allowable limits, the tunnel shall be tested and the results shall be recorded as prescribed in R 325.62991 et seq., occupational health standard Part 665. Underground Construction, Caissons, Cofferdams, and Compressed Air. The records shall be maintained at the jobsite. If the atmosphere is hazardous, either sufficient ventilation to eliminate the hazard shall be provided or respiratory equipment as prescribed by the department of consumer and industry services shall be worn.
- (18) If an atmosphere is found to be explosive, then sparks, flame, and other sources of ignition shall be prohibited and ventilation shall be provided until the hazard has been reduced and maintained at or below the maximum allowable limits as prescribed by the department of consumer and industry services.
- (19) An occupied auger or pipe jacking tunnel shall be monitored for air quality immediately before entering the tunnel and during the period of occupancy in the tunnel.

R 408.41463 Emergency provisions; plans; equipment; rescue crews.

- Rule 1463. (1) The employer shall develop a plan to evacuate a tunnel in an emergency and the procedures to carry out the plan shall be made known to the employees and to the rescue team.
- (2) An employer shall ensure that rescue teams are familiar with conditions at the jobsite.
- (3) On jobsites where 25 or more employees work underground at one time, an employer shall provide, or make arrangements in advance with locally available rescue services to provide, not less than 2 5-person rescue teams. One of the teams shall be on the jobsite or within 1/2 hour of travel time from the entry point and the other team shall be within 2 hours of travel time from the entry point.
- (4) On jobsites where less than 25 employees work underground at one time, an employer shall provide, or make arrangements in advance with locally available rescue services to provide, at least 1 5-person rescue team. The team shall either be on the jobsite or be within 1/2 hour of travel time from the entry point.
- (5) On jobsites where flammable or noxious gases are encountered or anticipated in hazardous quantities, rescue team members shall practice donning and using self-contained breathing apparatus monthly.
- (6) An emergency hoisting facility, such as a mud box or a crane, shall be readily available at a shaft that is used as a means of egress, unless a hoisting means is provided that is independent of an electrical power failure. The hoisting means shall be designed so that the load hoist drum is powered in both directions of rotation and so that the brake is automatically applied upon power release or failure.
- (7) An employer shall provide an escape-only respirator that is a self-contained breathing apparatus with a minimum of a 5 minute air supply. Respirators shall be approved by the national institute for occupational safety and health as prescribed in the provisions of 42 C.F.R. Part 84. Public Health Service, revised October 1, 2001, which is adopted by reference in R 408.41410. Respirators shall be used in accordance with R 325.60051 et seq., occupational health standard Part 451. Respirator protection. Escape-only respirators shall be immediately available for each employee at work stations in underground areas where employees might be trapped by smoke or gas.
- (8) Escape-only respirator that is a self-contained breathing apparatus shall be maintained in good operating condition. Employees shall be trained in its use.
- (9) There shall be a rescue crew for each shift of all underground operations. The rescue crew shall be trained in rescue procedures, the use and limitations of a breathing apparatus, and the use of fire fighting equipment. The crews shall be retrained at least once each year. Local fire and police personnel may be

used as rescue teams for tunnel operations. If local personnel are to be used, then the employer shall arrange for assistance before the start of the project.

(10) The following minimum rescue equipment shall be provided at the top of the shaft:

- (a) Four units of 1/2-hour-rated, self-contained breathing apparatus.
- (b) Four additional units of 1/2-hour-rated air bottles.
- (c) Four bureau of mines flashlights or lanterns with additional batteries for each light. The flashlights shall be as prescribed in part 20 of subchapter B of the provisions of 30 C.F.R. Parts 1-199, Mineral Resources, revised July 1, 2000, which is adopted by reference in R 408.41410.
- (d) Two 2A-10BC fire extinguishers.
- (e) One stretcher, wire basket type or equivalent with slings attached.
- (f) One fire blanket.
- (g) One 10-ton hand hydraulic rescue kit.
- (h) One first aid kit as prescribed in R 408.40101 et seq., construction safety standard Part 1. General Rules.

(11) At least 1 employee shall be on duty above ground when an employee is working underground. The primary duty of the employee who is above ground shall be to secure immediate aid for an employee who is underground in case of an emergency.

R 408.41464 Communication system; location; signals.

Rule 1464. (1) In a tunnel that is more than 225 feet long, a communication system shall be provided at all of the following locations:

- (a) The working face.
- (b) The top of the shaft.
- (c) The bottom of the shaft.
- (d) The hoisting station, if provided.
- (e) Each 1,000 feet of tunnel.
- (f) The office, if provided. A public telephone or other communication system shall be provided or available to each tunnel project to secure outside emergency help.
- (g) Hoist operators shall be provided with a closed-circuit voice communication system to each landing station. The system shall have speaker microphones located so that the operator can communicate with individual landing stations during hoist use.

(2) An employer shall establish and maintain direct communications for coordination of activities with other employers whose operations at the jobsite affect or may affect the safety of employees who are underground.

(3) If a tunnel is pressurized, then all of the following additional locations shall also be provided with a communication system:

- (a) The working chamber side of the manlock near the door.
- (b) The interior of all locks.
- (c) The lock attendant's station.
- (d) The compressor plant.
- (e) The first aid station.

(4) Communication systems shall be tested upon initial entry of each shift to the underground, and as often as necessary thereafter, to ensure that they are in working order.

(5) An employee who works alone underground in a hazardous location and who is both out of the range of natural unassisted voice communication and not under observation by other persons shall be provided with an effective means of obtaining assistance in an emergency.

(6) For an occupied pipe jacking tunnel that is more than 225 feet long, there shall be a telephone or other signal communication system established between the working face, the shaft tunnel portal, and at least 1 location on the surface.

(7) When a hoist house is provided, there shall be a second independent method of signaling, either audibly or visibly, to the hoist engineer from all landings in the shaft or slope.

(8) A signal code for hoisting shall be posted prominently in the engine house and at all places where signals are given. The signal code shall be as prescribed in R 408.41001 et seq., construction safety standard, Part 10. Lifting and Digging Equipment.

(9) If a gassy condition exists, then all phones that are located within the tunnel shall conform to the United States Bureau of Mines Schedule 9b, Part 23 of the provisions of 30 C.F.R. Parts 1-199, Mineral Resources, revised July 1, 2000, which is adopted by reference in R 408.41410. The telephone or other signal communication systems shall be independent of the tunnel power supply and shall be installed so that the use or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

R 408.41465 Protective clothing or equipment.

Rule 1465. (1) Protective clothing or equipment shall be required to be used as prescribed in R 408.40601 et seq., construction safety standard, Part 6. Personal Protective Equipment.

(2) An employee working in a wet shaft, tunnel, or caisson shall wear safety toe rubber boots which have flat gripper-type soles and which are provided by the employer, at no expense to the employee.

(3) An employee working in a shaft, tunnel, or caisson shall wear a protective helmet, which shall be provided for and as prescribed in R 408.40601 et seq., construction safety standard, Part 6. Personal Protective Equipment.

R 408.41466 Electrical requirements.

Rule 1466. (1) A power line shall be well separated or insulated from water lines, telephone lines, and air lines.

(2) Lighting circuits shall be located so that the movement of personnel or equipment will not damage the circuits or disrupt service.

(3) Electrical equipment and wiring shall be installed and maintained as prescribed in the provisions of subparts F to J of part 77 of the provisions of 30 C.F.R. Parts 1-199, Mineral Resources, revised July 1, 2000, which is adopted by reference in R 408.41410. The provisions of subparts F to J are adopted by reference with the following amendments:

(a) Article 305-1(a) is amended to read as follows: Temporary electrical power and lighting installations shall be permitted during the period of construction, remodeling, maintenance, repair, or demolition of buildings, structures, equipment, or similar activities which are located at ground level and which are part of facilities used for the construction of tunnels, shafts, and cofferdams.

(b) Article 310-15, is amended to read as follows: The maximum continuous ampacities for copper, aluminum, and copper-clad aluminum conductors shall be as specified in table 310-16 to 310-19 and accompanying notes 1 to 12. Power and lighting circuits may be loaded to the maximum design temperatures of the wire or cable insulation under the following conditions:

(i) A means shall be provided to disconnect the load if the feeder cable exceeds design temperature by more than 10% for 1 minute.

(ii) Power cable shall have a grounding and a pilot wire that conforms to the insulated power cable engineers association (IPCEA) type G grounded cable (G-GC) or equivalent.

(iii) Power cable shall have a loose connector emergency shutdown ability.

(iv) Power cable shall have a ground fault emergency shutdown ability.

- (v) Power cable shall have an arc between phases emergency shutdown ability.
- (c) Oil filled transformers shall not be used underground unless they are located in a fire-resistant enclosure suitably vented to the outside and surrounded by a dike to retain the contents of the transformer in the event of rupture.
- (4) All electrical power circuits that supply portable or hand-held tools, lights, or equipment shall be protected by approved ground-fault interrupters as prescribed in R 408.41701 et seq., construction safety standard, Part 17. Electrical Installations.
- (5) The regular system of illumination shall be supplemented by lighting that can be activated upon the failure of the regular system. Supplemental lighting, such as approved flashlights or lanterns, shall be sufficient to allow all employees to evacuate the tunnel.
- (6) A tunnel excavating machine that is built and designed after 1977 shall conform to the provisions of the national fire protection association standard NFPA 70: Standard for National Electrical Code, 1999 Edition, which is adopted by reference in R 408.41410.
- (7) A tunnel excavating machine that is designed and built after 1977 shall be equipped with a limit switch to prevent the accidental rotation of the main structure of the machine.
- (8) Electrical installation in underground areas where oil, grease, or diesel fuel are stored shall be used only for lighting fixtures.
- (9) Lighting fixtures in storage areas, or within 25 feet (7.62 meters) of underground areas where oil, grease, or diesel fuel are stored, shall be approved for class I, division 2 locations, as prescribed in R 408.41701 et seq., construction safety standard Part 17. Electrical Installation.

R 408.41467 Fire prevention and protection.

- Rule 1467. (1) The applicable requirements for fire prevention and protection as prescribed in R 408.41801 et seq., construction safety standard Part 18. Fire Prevention and Protection shall be complied with in all tunnel and shaft operations.
- (2) Smoking and open flames are prohibited. An employer is responsible for collecting all personal sources of ignition, such as matches and lighters, from all persons. Welding and cutting, where required, shall be in compliance with the provisions of subrules (9), (10), (11), (12), and (13) of this rule. A fire watch shall be maintained when hot work is performed.
 - (3) Not more than a 1-day supply of diesel fuel shall be stored in a tunnel or shaft. Gasoline or liquefied petroleum gas shall not be taken in a tunnel or shaft. Acetylene or methylacetylene propadiene stabilized gas may be used underground solely for welding, cutting, and other hot work and only as prescribed in R 408.40701 et seq., construction safety standard Part 7. Welding and Cutting.
 - (4) The piping of diesel fuel from the surface to an underground location is permitted only if all of the following provisions are complied with:
 - (a) Diesel fuel is contained at the surface in a tank with a maximum capacity that is not more than the amount of fuel required to supply, for a 24-hour period, the equipment that is serviced by the underground fueling station.
 - (b) The surface tank is connected to the underground fueling station of an acceptable pipe or hose system that is controlled at the surface by a valve and at the shaft bottom by a hose nozzle.
 - (c) The pipe is empty at all times, except when transferring diesel fuel from the surface tank to a piece of equipment in use underground.
 - (d) Hoisting operations in the shaft are suspended during refueling operations if the supply piping in the shaft is not protected from damage.
 - (e) Acetylene, liquefied petroleum gas, and methylacetylene propadiene stabilized gas may be used underground only for welding, cutting, and other hot work and only in accordance with the provisions of subrules (9), (10), (11), (12), and (13) of this rule. Not more than the amount of fuel gas and oxygen

cylinders necessary to perform welding, cutting, or other hot work during the next 24-hour period shall be permitted underground.

(f) Not more than the amount of fuel gas and oxygen cylinders necessary to perform welding, cutting, or other hot work during the next 24-hour period shall be permitted underground.

(5) Leaks and spills of flammable or combustible fluids shall be cleaned up immediately.

(6) Oil, grease, or diesel fuel that is stored in a tunnel or shaft shall be kept in tightly sealed containers in fire-resistant areas at safe distances from explosives, magazines, electrical installations, and shaft stations. Electrical installations in underground areas where oil, grease, or diesel fuel are stored shall be used only for lighting fixtures. Lighting fixtures in storage areas, or within 25 feet (7.62 meters) of underground areas where oil, grease, or diesel fuel are stored, shall be approved for class I, division 2 locations.

(7) Fire-resistant hydraulic fluids shall be used in hydraulically actuated underground machinery and equipment. For the purpose of this requirement, a fire-resistant hydraulic fluid means any liquid which has a flash point above 200 degrees Fahrenheit and which has a vapor pressure of not more than 40 p.s.i. (absolute) at 100 degrees Fahrenheit.

(8) An approved 4A:40B:C rating fire extinguisher or equivalent protection shall be provided at the drive pulley of an underground conveyor and at 300-foot intervals along the belt. A minimum of 2 2A-10BC approved fire extinguishers shall be provided at the tunneling machine.

(9) A pressurized tunnel in which combustible materials are stored or used shall be equipped with a 2-inch minimum diameter water line with an outlet that is connected to a 1 1/2-inch nominal diameter fire hose which is capable of reaching the combustible materials. The water supply shall be of sufficient volume and pressure to efficiently operate the type of nozzle used on the fire hose for a minimum of 1 minute. Fire extinguishers may be substituted for the water and fire hose if they meet the requirements for the water service.

(10) All of the following are additional requirements for gassy operations:

(a) Only acceptable equipment, maintained in suitable condition, shall be used in gassy operations.

(b) Mobile diesel-powered equipment used in gassy operations shall be either approved as prescribed in the requirements of 30 C.F.R. Part 36, Mineral Resources, revised July 1, 2000, which is adopted by reference in R 408.41410 or shall be demonstrated by the employer to be fully equivalent to the mine safety and health administration approved equipment and shall be operated in accordance with that part.

(c) Each entrance to a gassy operation shall be prominently posted with signs notifying all entrants of the gassy classification.

(11) A minimum of 1 approved 2A-10BC fire extinguisher shall be provided for each electrical, diesel, or hydraulic powered machine used in a tunnel or shaft.

(12) A noncombustible barrier shall be installed below welding or burning operations.

(13) In an underground operation, local gas checks shall be made before and during a welding or cutting operation and during a drilling operation that would penetrate the tunnel.

(14) If more than .25% of methane by volume or 5% of the LEL, lower explosive limit, of a flammable gas or petroleum vapor is detected, then the welding, cutting, heating, or drilling operation shall cease until the hazard has been eliminated.

(15) A fire watch shall be maintained around welding and cutting operations until all possibility of fire is eliminated. The fire watch shall be provided with a minimum of 1 approved 2A-10BC fire extinguisher.

(16) Flammable materials or supplies, other than those used during 1 shift, shall not be stored within 100 feet (30.48 meters) of any tunnel or shaft opening. If this is not feasible because of space limitations on the jobsite, then such materials may be located within the 100 foot limit, if both of the following provisions are complied with:

(a) The materials are located as far as practicable from the opening.

(b) A fire resistant barrier of not less than a 1-hour rating is placed between the stored material and the opening or additional precautions are taken that will protect the materials from ignition sources.

(17) A head frame shall be constructed of steel or other fire resistant material. A hoist house and other temporary surface building or structures within 100 feet of the shaft, caisson, or tunnel opening shall be built of fire-resistant materials that have a fire resistance rating of not less than 1 hour.

TUNNELS AND SHAFTS

R 408.41471 Ground support; inspections; repairs.

Rule 1471. (1) A qualified employee shall inspect the roof, face, and walls of portals, work areas, and haulage ways, or travelways at the start of each shift and frequently thereafter as needed. If loose soil or rock or fractured material is encountered, then it shall be scaled or protected and supported. The employee conducting the inspections shall be protected from loose ground by location, ground support, or equivalent means. Suitable protection shall be provided for employees exposed to the hazard of loose ground while installing ground support systems. Support sets shall be installed so that the bottoms have sufficient anchorage to prevent ground pressures from dislodging the support base of the sets. Lateral bracing (collar bracing, tie rods, or spreaders) shall be provided between immediately adjacent sets to ensure added stability. Damaged or dislodged ground supports that create a hazardous condition shall be promptly repaired or replaced. When replacing supports, the new supports shall be installed before the damaged supports are removed. A shield or other type of support shall be used to maintain a safe travel way for employees working in dead-end areas ahead of any support replacement operation.

(2) A scaling bar shall be in good condition. A blunted or severely worn bar shall not be used.

(3) A torque meter and a torque wrench shall be available where rock bolts are used for ground support. Frequent tests shall be made to determine if the bolts are tight. The test frequency shall be determined by rock conditions and distance from vibration sources.

(4) A damaged or dislodged tunnel support shall be repaired or replaced when structural integrity is impaired. A new support shall be installed if possible before removing damaged supports.

(5) Tunnel supports shall be designed and installed to prevent pressure from pushing them inward into the excavation.

(6) Roof supports shall be used where ground conditions are such that there could be a ground failure ahead of tunnel sets.

(7) A tunnel that is to be occupied by employees shall be provided with a steel casing, concrete pipe, timber, or other material of required strength to support the surrounding earth.

(8) If an employee is required to enter a tunnel less than 3 feet in diameter, then a lifeline for instant rescue shall be securely fastened to his or her ankles. Another employee shall be stationed at the tunnel entrance to operate the lifeline. In addition, ventilation shall be provided with an air line.

R 408.41472 Shafts; supports; inspections; lifelines.

Rule 1472. (1) A shaft that an employee is required to enter shall be provided with steel casing, concrete pipe, timber, or other material that is strong enough to support the surrounding earth.

(2) For rescue operations, a lifeline shall be securely fastened to a safety harness on each employee who enters a shaft that is less than 4 feet in diameter. The lifeline and safety harness shall be provided as prescribed in R 408.44501 et seq., construction safety standard Part 45. Fall Protection.

(3) A shaft that is more than 5 feet in depth shall be braced to support the surrounding earth. The bracing shall be provided the full depth of the shaft, or, if rock is encountered, to not less than 5 feet into solid rock, and shall extend not less than 1 foot above the ground level.

(4) After a blasting operation, the bracing shall be inspected. If the bracing is found to be unsafe, then corrections shall be made before the shift operations are continued.

(5) A shaft or caisson shall be protected with a guardrail system as prescribed in R 408.44501 et seq., construction safety standard Part 45. Fall Protection, or barricaded as prescribed in R 408.42201 et seq., construction safety standard Part 22. Signals, Signs, Tags, and Barricades. A gate opening into the shaft shall be provided and shall be closed at all times, except when necessary to enter or leave the shaft or caisson.

R 408.41474 Blasting.

Rule 1474. (1) All blasting and explosives handling shall be conducted as prescribed in R 408.42701 et seq., construction safety standard Part 27. Blasting and Use of Explosives.

(2) An employer shall not allow an employee to enter a shaft or a tunnel heading after blasting until air quality meets minimum requirements.

(3) Blasting wire shall be kept clear of electrical lines, pipes, rails, and other conductive material, excluding earth, to prevent explosives initiation or employee exposure to electric current.

(4) After blasting operations in shafts, a competent person shall determine if the walls, ladders, timbers, blocking, or wedges have loosened. If so, necessary repairs shall be made before employees other than those assigned to make the repairs are allowed in or below the affected areas.

R 408.41475 Haulage; inspection; braking; riding.

Rule 1475. (1) Haulage equipment that is to be used during a shift shall be inspected by a qualified person before the start of the shift. Known defects that affect the safety of employees shall be corrected before the equipment is used.

(2) The roadbed, rails, joints, switches, frogs, and other elements of the track of a haulage road shall be constructed, installed, and maintained in a manner that is consistent with the speed and type of the haulage operations to be conducted.

(3) A track switch shall be provided with a locking or spring-loaded thrown bridle bar and guardrail. The switch throw, where possible, shall be placed on the clearance side, and the switch throw shall operate parallel to the haulage road.

(4) A powered locomotive or other mobile equipment shall be provided with suitable brakes, an audible warning device for use by the operator as needed, and lights at both ends.

(5) Powered mobile haulage equipment that is subject to falling materials shall be equipped with a cab, canopy, or other protective device that is capable of protecting the operator from shifting or falling materials. For cabs where glazing is used, the glass shall be safety glass, or its equivalent, and shall be maintained and cleaned so that vision is not obstructed.

(6) Powered mobile equipment shall not be left unattended unless the power is off, all operating controls are in the neutral position, and the brakes are set or other equivalent precautions are taken to prevent rolling. The operating controls shall be designed to automatically return to a neutral position or shall be equipped with a deadman control.

(7) A trolley wire shall be protected from contact with employees. Energized rails shall not be used, except when used as a ground return for a trolley wire. If rails serve as a return for a trolley circuit, then both rails shall be bonded at every joint and cross bonded every 200 feet (60.96 meters).

(8) Backstops or automatic braking shall be installed on an inclined conveyor to prevent the conveyor from running out of control and creating a hazard for the employee.

(9) An employee shall not ride on any of the following unless specifically designed or adapted for transporting employees:

(a) A power-driven chain, belt, or bucket conveyor.

- (b) A dipper.
- (c) A shovel bucket.
- (d) Forks.
- (e) A clamshell.
- (f) The bed of a dump truck.
- (g) Haulage equipment. An employee shall not ride haulage equipment unless it is equipped with seating for each passenger and protects passengers from being struck, crushed, or caught between other equipment or surfaces.
- (10) An employer shall not use an endless belt-type man lift in underground construction.
- (11) Cars that are dumped by hand shall be provided with tie-down chains or dumper blocks to prevent the cars from overturning.
- (12) A rocker bottom or bottom-dump car shall be equipped with positive-locking devices.
- (13) Equipment that is to be hauled shall be loaded or protected so as to prevent sliding or spillage.
- (14) Parked rail haulage equipment shall be chocked or chained if subject to accidental movement.
- (15) Berms, bumper blocks, safety hooks, or similar means shall be provided to prevent overtravel or overturning at dumping locations and, where necessary, at track dead ends.
- (16) Supplies, materials, and tools, other than small hand tools shall not be transported with employees in the same car and shall not be transported on top of a locomotive.
- (17) A refuge station shall be provided not more than every 300 feet where a clearance of 2 feet from moving equipment cannot be provided for employees unless the employees are prohibited from walking the haulage route during movement of a haulage train along the route.
- (18) A train that is used on an incline which would cause the cars to run out of control shall, in addition to couplings, have safety chains, or the equivalent, to connect the cars and the power haulage equipment in a train. The safety chains or other connections shall be capable of maintaining connection between cars in the event of either coupler disconnect, failure, or breakage.
- (19) When an employee is being transported in a train, the operator shall have clear vision beyond the forward end of the train for safe operation.
- (20) Mobile equipment, including rail-mounted equipment, shall be stopped for manual connecting or service work.
- (21) Employees shall not reach between moving cars during coupling operations.
- (22) Couplings shall not be aligned, shifted, or cleaned when cars or locomotives are moving.
- (23) Where switching facilities are available, occupied personnel cars shall be pulled, not pushed. If occupied personnel cars must be pushed and the visibility of the track is hampered, then a qualified person shall be stationed in the lead car to give signals to the locomotive operator.

R 408.41476 Stationary hoists generally.

Rule 1476. (1) To ensure suitable operation and safe condition of all functions and safety devices, each hoist assembly shall be inspected and load-tested to 100% of its rated capacity at the time of installation, after any repairs or alterations affecting its structural integrity, after the operation of any safety device, and annually when in use. The employer shall prepare a certification record that includes all of the following information:

- (a) The date each inspection and load-test was performed.
 - (b) The signature of the person who performed the inspection and test.
 - (c) A serial number or other identifier for the hoist that was inspected and tested.
 - (d) The most recent certification record shall be maintained on file until completion of the project.
- (2) A qualified person who shall be designated by the employer, shall visually inspect the stationary hoist assembly, anchorages, and hoisting rope at the beginning of each shift.

- (3) All unsafe conditions that are revealed by tests, checks, or inspections shall be corrected before use of the equipment.
- (4) An employee shall not be permitted to ride on a material hoist, unless the hoist is in compliance with the requirements of R 408.41478(1).
- (5) Before maintenance, repairs, or other work is commenced in the shaft that is served by a hoist, the hoist operator shall be informed of the maintenance, repairs, or other work. A notice shall be installed at the top of the shaft and at the operator controls and shall state that work is being done in the shaft.
- (6) Employees who are at the bottom of an excavated shaft shall be protected from the movement of equipment, tools, or materials overhead or the shaft shall be vacated during the operations that may be hazardous to persons below.
- (7) If an employee is raised or lowered in a shaft, then all other hoisting operations in the shaft shall be stopped until the employee has disembarked at the bottom or top of the shaft.
- (8) When a stationary hoist is being used, the drum-operating lever shall be of a type that returns automatically to the “stop” position when the operator’s hand is removed, unless, as a substitute, the throttle that controls the drum speed automatically stops the drum and slows the engine to idling speed when the throttle is released.
- (9) Only wire rope shall be used for hoisting and it shall be properly secured at both the drum and cage or skip ends. When the hoist is in use, not less than 2 full turns shall remain on the conventional drum hoist to protect the end that fastens at the drum from an overload.
- (10) Wire rope shall not be used when any of the following conditions exist:
 - (a) Six randomly distributed broken wires in 1 rope lay, 3 broken wires in 1 strand in 1 lay, or 1 valley break. A valley break is a wire break that occurs between 2 adjacent strands.
 - (b) Abrasion, scrubbing, flattening, peening, or any severe change that causes the loss of more than 1/3 of the original diameter of the outside wires in any given area.
 - (c) Evidence of any heat damage or any damage that is caused by contact with electrical wires or marked corrosion of the rope.
 - (d) Reduction from nominal diameter of more than 3/64 of an inch for diameters up to and including 3/4 of an inch, 1/16 of an inch for diameters 7/8 to 1 1/8 inches, and 3/32 of an inch for diameters 1 1/4 to 1 1/2 inches.
- (11) A wire rope that is used for hoisting shall be continuous and shall not have a knot or splice. The hoisting rope shall not be placed around the load.
- (12) The connection between the hoisting rope and the cage or skip shall be of a type to prevent the cage from spinning.
- (13) All hoists shall be equipped with a landing level indicator at the operator’s station.
- (14) Limit switches shall be provided to eliminate 2 blocking.
- (15) A warning light, suitably located to warn employees at the shaft bottom and subsurface shaft entrances, shall flash if a load is above the shaft bottom or subsurface entrances or if the load is being moved in the shaft. This subrule does not apply to fully enclosed hoistways.
- (16) If a hoistway is not fully enclosed and employees are at the shaft bottom, then conveyances or equipment shall be stopped not less than 15 feet above the bottom of the shaft and held there until the signalperson at the bottom of the shaft directs the operator to continue lowering the load, except that the load may be lowered without stopping if the load or conveyance is within full view of a bottom signalperson who is in constant voice communication with the operator.
- (17) Cage, skips, and load connections to the hoist rope shall be made so that the force of the hoist pull, vibration, misalignment, release of lift force, or impact will not disengage the connection. Moused or latched open-throat hooks do not meet this requirement.
- (18) When using wire rope wedge sockets, means shall be provided to prevent wedge escapement and to ensure that the wedge is properly seated.

- (19) Hoists shall be designed so that the load hoist-drum is powered in both directions of rotation and so that the brakes are automatically applied upon power release or failure.
- (20) If a crane is used for both personnel hoisting and material hoisting, then the load and speed ratings for personnel and for materials shall be assigned to the equipment.
- (21) Employees shall not ride on top of any cage, skip, or bucket, except when necessary to perform inspection or maintenance of the hoisting system, in which case they shall be protected by a body belt/harness fall prevention system.

R 408.41477 Stationary material hoists.

Rule 1477. (1) A hoist used for raising or lowering materials in a shaft shall have a minimum factor of safety of 5, shall be designed and rated by a qualified engineer, and shall be constructed in accordance with the design. The design shall be constructed so that the hoist cannot exceed the maximum rated speed.

- (2) The rated capacity of the hoist shall be posted at all working levels.
- (3) Each hoist assembly shall be load tested to 200% of its rated capacity upon installation, after any repairs or alterations affecting its structural integrity or operation of safety devices, and every 6 months during use. A written record of each test shall be maintained for the duration of the project and shall be made available for inspection by authorized representatives of the director.
- (4) Hoist equipment and the operator shall be protected from inclement weather by a hoist house with a comfortable temperature maintained.
- (5) Where glass is used in hoist house windows, the glass shall be safety glass or its equivalent.
- (6) Hoist controls shall be arranged to make them operable from a single position of the operator.
- (7) Controls for powered hoists shall be of the deadman-type with a non-locking switch or control.
- (8) A device to shut off the power shall be installed ahead of the operating control.
- (9) A hoist machine that has cast metal parts shall be limited to 2,000 pounds single line pull.
- (10) All hoists shall be equipped with landing level indicators at the operator's station.
- (11) Material, tools, and supplies being raised or lowered, whether within a cage or otherwise, shall be secured or stacked in a manner to prevent the load from shifting, snagging, or falling into the shaft.

R 408.41478 Personnel hoists.

Rule 1478. (1) A personnel hoist shall be used to raise or lower an employee in a tunnel shaft or caisson. A crane may be used to raise or lower an employee, if the crane and the work platform are as prescribed in R 408.41001 et seq., construction safety standard Part 10. Lifting and Digging Equipment. The hoist shall be in compliance with the provisions of 1967 PA 227, MCL 408.801 et seq., bureau of construction codes, elevator safety board, R 408.8511 to R 408.8524 which is referenced in R 408.41410. During the excavation of a shaft or caisson, an employee may be raised or lowered on a work platform if the work platform meets the specifications of subrule (2) of this rule.

(2) A work platform that is attached to the load line of a crane which is used to transport, raise, or lower employees shall be in compliance with all of the following provisions:

- (a) Be designed by a qualified person. All welding shall be in accordance with applicable American welding society standards. American welding society (AWS) standard IHS AWS--Structural Welding Code, 2000 Edition, which is adopted by reference in R 408.41410.
- (b) Except for the guardrail system, be of welded mild steel construction that has a minimum safety factor of 5 times the maximum intended load.
- (c) Have continuous mild steel guardrails (toprails and midrails) and toeboards as prescribed in R 408.44501 et seq., construction safety standard Part 45. Fall Protection.

- (d) Have wood planking, steel plate, or grating that is bolted or welded to the bottom of the work platform.
- (e) Have a 4-point wire suspension system that utilizes wire which is not less than 1/2 of an inch in diameter. Each leg of the suspension system shall be independent wire rope that has hand-tucked eye splices or swaged fittings on each end. Wire rope clips shall not be used. The independent suspension system shall be attached to the work platform using proper size screw pin shackles.
- (f) Have each leg of the independent 4-point suspension system at a 30-degree angle from the vertical.
- (g) Be connected to the load line by means of a screw pin shackle or a gated hook. Both ends of a minimum 5/8-inch wire rope safety line shall be installed above the headache ball to a screw pin shackle and pass through the eyes of the work platform suspension system to prevent the platform from falling if disengaged from the gated hook. If a screw pin shackle is used in place of a gated hook, then the 5/8-inch wire rope safety line is not required.
- (h) Have overhead protection when there is an overhead hazard.
- (i) Have a permanently affixed sign that specifies the maximum number of passengers, the identification number, and the maximum intended load.
- (j) Be easily identifiable by high-visibility color or marking.
- (3) Before a work platform is used on a jobsite, it shall be load-tested to 2 times the maximum intended load.
- (4) The work platform and the test load shall be raised and lowered to the maximum anticipated change of elevation.
- (5) A record of the load test shall be maintained on the jobsite.
- (6) Employees on the work platform shall be provided with, and be required to use, proper safety equipment as prescribed in R 408.44501 et seq., construction safety standard Part 45. Fall Protection. An employee shall wear a personal fall arrest system that has a lanyard affixed to the top rail of the steel guardrail system of the work platform. Standing on the guardrail system is prohibited.
- (7) Free-spooling is prohibited when using a work platform to lower personnel. The maximum rate of travel shall be 100 feet per minute.
- (8) All sides of personnel cages shall be enclosed by 1/2-inch (12.70 mm) wire mesh, which shall not be less than no. 14 gauge or its equivalent, to a height of not less than 6 feet (1.83 m). When the cage or skip is being used as a work platform, its sides may be reduced in height to 42 inches (1.07 m) when the conveyance is not in motion. All personnel cages shall be provided with a positive-locking door that only opens inward.
- (9) The rails on 1 side of personnel cages shall be removed and a chain shall be installed in place of the top rail to provide a door opening. The chain shall be securely fastened during all travel and only be opened during access to, or egress from, the work platform.
- (10) Only hand and portable powered tools shall be permitted on the work platform.
- (11) Flammable or combustible liquids or gases shall not be permitted on the work platform if the platform is occupied by an employee or employees.
- (12) Platforms shall not be used during adverse weather conditions that could affect the safety of employees.
- (13) There shall be a communication system, which may be a hand signal, a telephone wire, or a selective frequency radio system, between employees on the work platform and the operator of the crane. The system shall be in compliance with both of the following provisions:
 - (a) If hand signals are being employed and employees are being raised, lowered, or positioned and are not in continuous sight of the operator of the crane at all times, then the employer shall designate an employee, who shall not be on the work platform, to be the signalperson.

- (b) The signalperson shall not be assigned any other duties while the work platform is in a suspended position with employees on it and shall remain in a position so that both the work platform and the operator can be seen at all times.
- (14) The crane shall be inspected daily before being used with a work platform. All of the following components shall be inspected:
 - (a) The wire rope.
 - (b) The hook.
 - (c) The brakes.
 - (d) The boom.
 - (e) Any other mechanical and rigging equipment that is vital to the safety of the operation.
- (15) Any structural or mechanical defect that could adversely affect the safe operation of the crane shall be corrected before an operation that utilizes a work platform begins.
- (16) Inspections shall be logged and the records maintained on the jobsite.
- (17) The operator of a crane that is used to raise or lower a work platform shall be authorized by the employer and properly qualified to perform the operation.
- (18) A qualified crane operator shall not be authorized to raise or lower a platform unless the operator has at least 8 hours of experience in the operation of the specific crane or on a crane of the same type and design.
- (19) A crane that is used to raise or lower a work platform shall not be within 25 feet of an overhead energized power line at the closest point of contact.
- (20) When a crane is being used with a work platform, another load shall not be attached to the work platform.
- (21) Only a crane that is equipped with a boom that has a power control lowering system shall be allowed to raise or lower a work platform. The crane boom shall not be live.
- (22) The operator of the crane shall remain at the controls with the engine running when an occupied work platform is in a suspended position.
- (23) The load line of a crane that is used to raise or lower a work platform shall be equipped with a swivel to prevent any rotation of the work platform. The use of nonspin wire rope is prohibited.
- (24) Neither the load nor the boom shall be lowered below the point where less than 4 full wraps of rope remain on their respective drums.
- (25) A crawler crane that is used to raise or lower a work platform shall be set on a firm base and chocked to prevent movement.
- (26) A crane shall not travel in any direction when personnel are on the work platform.
- (27) A crane that is equipped with outriggers shall have the beams fully extended, the jacks lowered, and each float on a firm base when the work platform is in use.

R 408.41479 Flooding; safety screens; runways.

Rule 1479. If there is a danger of rapid flooding in a tunnel that has a bore of 16 feet or more in diameter, then both of the following shall be provided:

- (a) A runway from the face to the bulkhead as high in the tunnel as practicable to maintain not less than a 6-foot vertical clearance from the surface of the runway upward to the surface of the tunnel. The runway shall be constructed of noncombustible material and shall have a standard railing installed securely along the length of the runway as prescribed in R 408.42101 et seq., construction safety standard Part 21. Guarding of Walking and Working Areas, and R 408.44501 et seq., construction safety standard Part 45. Fall Protection. If the runway is ramped under a safety screen, then the surface shall be made slip-resistant by cleats or other equivalent means.

(b) Metal safety screens or other equivalent means installed with the bottom of the screen 4 feet above the surface of the runway. The first screen shall be located not less than 400 feet from the face of the tunnel.

COFFERDAMS AND CAISSONS

R 408.41481 Cofferdams.

Rule 1481. (1) A cofferdam shall be designed by a qualified engineer and shall be constructed and maintained in accordance with the design.

(2) If overtopping of the cofferdam by high waters is possible, then means shall be provided for controlled flooding of the work area.

(3) Warning signals for the evacuation of employees in case of an emergency shall be developed and posted.

(4) A cofferdam shall have not less than 2 means of egress. Runways, bridges, or ramps shall be provided with guardrails as prescribed in R 408.44501 et seq., construction safety standard Part 45. Fall Protection.

(5) If cofferdams are located close to navigable shipping channels, then warning devices that are visible to vessels in transit shall be provided.

R 408.41483 Caissons used under pressure.

Rule 1483. (1) A caisson used under pressure shall be subjected to a hydrostatic test equal to 200% of the working pressure before being used on a job, at which pressure it shall be tight. The caisson shall be stamped on the outside shell about 12 inches from each flange to show the pressure to which it has been subjected.

(2) All caissons that have a diameter or side greater than 10 feet shall be provided with a man lock and shaft for the exclusive use of employees. In addition to the gauge in the locks, an accurate gauge shall be maintained on the outer and inner side of each bulkhead. These gauges shall be accessible at all times and kept in accurate working order.

(3) In caisson operations where employees are exposed to compressed air working environments, as prescribed in R 325.62991 et seq., occupational health standard Part 665. Underground Construction, Caissons, Cofferdams, and Compressed Air, shall be compiled with.

ADMINISTRATIVE RULES

ORR # 2002-048

DEPARTMENT OF TRANSPORTATION

AERONAUTICS COMMISSION

GENERAL RULES

Filed with the Secretary of State on February 24, 2003
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the aeronautics commission by section 51 of 1945 PA 327, MCL 259.51, and section 11 of 1959 PA 259, MCL 259.491)

The general rules of the aeronautics commission, being R 259.201 to R 259.807, are R 259.241, R 259.243, and R 259.244, of the Michigan Administrative Code are amended to read as follows:

PART 4. AIRPORT CLASSIFICATION

R 259.241 Scope.

Rule 241. This part prescribes the minimum airport facilities required for the granting of a license to operate a public use airport as provided by 1945 PA 327, MCL 259.1 et seq. Licensed public use airports shall be included on the Michigan aeronautical charts and other aviation publications made available to the public.

R 259.243 Basic utility airports.

Rule 243. A basic utility airport shall meet all of the following requirements:

- (a) Have an airport manager licensed by the commission.
- (b) Contain a runway that has a 1,200-foot landing length in each direction from a clear approach slope of 20 to 1. Unpaved runways shall have a minimum width of 50 feet with an additional 25 feet minimum width on each side clear of obstructions. Paved runways shall have a minimum width of 40 feet with an additional 30 feet minimum width on each side clear of obstructions.
- (c) Maintain a state primary surface for each runway clear of all obstructions. The state primary surface shall be not be less than 100 feet wide, but not less than the width of the runway.
- (d) Maintain a state approach surface that extends outward and upward from the end of the state primary surface for a distance of 5,000 feet. The shape of the state approach surface is rectangular with a minimum width of 100 feet and a length of 5,000 feet. The width of the state approach surface shall be at least as wide as the width of the runway. The state approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 to 1 including 15 feet of clearance over roads, 17 feet of clearance over interstate highways, 23 feet of clearance over railroads, and 25 feet of clearance over property lines. The state approach surface begins at the runway end for unpaved runways. If an object penetrates the state approach surface, the landing threshold shall be displaced to a point where a clear 20 to 1 approach slope can be maintained.

- (e) Establish a permanent monument located on the centerline at or beyond each end of the runway.
- (f) Maintain a clearly marked automobile parking area.
- (g) Maintain an itinerant aircraft parking area.
- (h) Maintain a clearly marked entrance from a public road.
- (i) Paved runways shall have centerline marking and runway numbering conforming to the published standards of the federal aviation administration.
- (j) Unpaved runways marked in accordance with commission standards.
- (k) Maintain a windcone.
- (l) Airports that have right traffic patterns shall have a segmented circle that has traffic pattern indicators.
- (m) Runway lighting, if available for public use, shall conform to federal aviation administration standard color and layout in accordance with FAA Advisory Circular 150/5340-24 dated September 3, 1975, which is adopted by reference in these rules. Printed copies of FAA Advisory Circular 150/5340-24 are available for inspection and distribution to the public free of charge at the office of the Michigan Department of Transportation, Bureau of Aeronautics, 2700 East Airport Service Drive, Lansing, Michigan 48906. Printed copies of FAA Advisory Circular 150/5340-24 are also available, free of charge, from the United States Department of Transportation, 800 Independence Avenue, Washington, D.C. 20591.

R 259.244 General utility airports.

Rule 244. (1) A general utility airport shall meet all of the following requirements:

- (a) Have an airport manager licensed by the commission.
- (b) Contain a runway that has a 1,800-foot landing length in each direction from a clear approach slope of 20 to 1. Unpaved runways shall have a minimum width of 100 feet. Paved runways shall have a minimum width of 40 feet.
- (c) Maintain a state primary surface for each runway clear of all obstructions. The state primary surface shall be not less than 250 feet wide.
- (d) Maintain a state approach surface for each runway end that extends outward and upward from the end of the state primary surface for a distance of 5,000 feet. The shape of the approach surface is a trapezoid that has a width of 250 feet at the end of the primary surface and expands uniformly to a width of 1,250 feet. The state approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 to 1, including 15 feet of clearance over roads, 17 feet of clearance over interstate highways, 23 feet of clearance over railroads, and 25 feet of clearance over property lines. The state approach surface begins at the runway end for unpaved runways. If an object penetrates the state approach surface, the landing threshold shall be displaced to a point where a clear 20 to 1 approach slope can be maintained.
- (e) Contain a permanent monument located on the centerline at or beyond each end of the runway.
- (f) Maintain a clearly marked automobile parking area.
- (g) Maintain a clearly marked entrance from a public road.
- (h) Paved runways shall have centerline marking and runway numbering conforming to the published standards of the federal aviation administration.
- (i) Unpaved runways marked in accordance with commission standards.
- (j) Any crosswind runways shall meet minimum requirements for a basic utility runway.
- (k) Maintain a lighted windcone.
- (l) Runway lighting shall be available from sunset to sunrise daily. Lighting configuration shall conform to federal aviation administration standard color and layout in accordance with FAA Advisory Circular 150/5340-24, dated September 3, 1975, which is adopted by reference in these rules. Printed copies of

FAA Advisory Circular 150/5340-24 are available for inspection and distribution to the public free of charge at the office of the Michigan Department of Transportation, Bureau of Aeronautics, 2700 East Airport Service Drive, Lansing, Michigan 48906. Printed copies of the FAA Advisory Circular 150/5340-23 are also available, free of charge, from the United States Department of Transportation, 800 Independence Avenue, Washington, D.C. 20591.

(m) Airports that have right traffic patterns shall have a segmented circle that has traffic pattern indicators.

(2) A general utility airport shall provide all of the following services:

(a) An administration building or terminal building that has sanitary facilities available to the public.

(b) Adequate means to deter unauthorized or inadvertent access to the aircraft operations area.

(c) A telephone that is available to the public 24 hours daily on the airport and has the telephone's location clearly indicated.

(d) A formally adopted emergency service plan prepared by the airport owner.

(e) Airport rules and regulations that are adopted by the airport owner and available to the public.

(f) Itinerant aircraft parking and tie-downs, including adequate ropes and chains or their equivalent.

ADMINISTRATIVE RULES

ORR # 2002-052

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

BUREAU OF WORKERS' AND UNEMPLOYMENT COMPENSATION

WORKER'S COMPENSATION HEALTH CARE SERVICES

Filed with the Secretary of State on February 24, 2003.
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the bureau of worker's and unemployment compensation by sections 205 and 315 of 1969 PA and Executive Reorganization Nos. 1982-2, 1986-3, 1990-1, 1996-2, 1997-12, and 2002-1, MCL 418.205, 418.315, 24.233, 18.24, 418.1, and 418.2, 445.2001, 421.94, and 445.2004)

R 418.10104, R 418.10105, R 418.10106, R 418.10107, R 418.10108, R 418.10116, R 418.10117, R 418.10121, R 418.10202, R 418.10904, R 418.10915, R 418.10916, R 418.10922, R 418.10923, R 418.10925, R 418.101002, R 418.101204, R 418.101206, and R 418.101501 of the Michigan Administrative Code are amended, R 418.10902, R 418.101502, R 418.101503, and R 418.101504 are added to the Code, and R 418.10924 of the code is rescinded as follows:

R 418.10104 Reimbursement to an injured worker or to a health insurer for compensable medical services.

Rule 104. (1) Notwithstanding any other provision of these rules, if an injured worker has paid for a health care service and at a later date a carrier is determined to be responsible for the payment, then the injured worker shall be fully reimbursed by the carrier.

(2) The injured worker shall not be required to submit the request for reimbursement on a medical or dental claim form, but shall supply to the carrier a copy of a statement including the provider name, the date of service, the procedure and diagnosis and documentation of the amount paid.

(3) When a health insurer pays for a medical service to treat an injured worker and subsequently requests reimbursement from the workers' compensation carrier, the health insurer is not required to submit the request on a HCFA 1500, or a UB-92 claim form, or other medical or dental claim form. The health insurer shall supply to the workers' compensation carrier, or the carrier's designee, a claim detail showing the date of service, the amount billed and paid, the procedure code and diagnosis for the rendered services. The workers' compensation carrier shall reimburse the health insurer the providers' usual and customary fee or the maximum allowable fee, whichever is less, for the compensable medical services in accordance with these rules. If the health insurer reimbursed the provider less than the amount allowed by these rules, then the workers' compensation carrier shall reimburse the amount paid by the health insurer.

R 418.10105 Balance billing amounts in excess of fees.

Rule 105. The provider shall not bill the injured worker for any amount for health care services, or for late fees incurred, provided for the treatment of a covered injury or illness when the amount is disputed

by the carrier pursuant to its utilization review program or when the amount exceeds the maximum allowable payment established by these rules.

R 418.10106 Procedure codes; relative value units; and other billing information.

Rule 106. (1) Upon annual promulgation of R 418.10107, the health care services division of the bureau shall publish a manual separate from these rules containing all of the following information:

- (a) All CPT® procedure codes used for billing health care services.
- (b) Medicine, surgery, and radiology procedures and their associated relative value units.
- (c) Hospital maximum payment ratios.
- (d) Billing forms and instruction for completion.
- (2) The procedure codes and standard billing instructions for medicine, surgery, and radiology services shall be adopted from the most recent publication entitled "Physicians' Current Procedural Terminology, (CPT®)" as adopted by reference in R 418.10107.
- (3) The formula and methodology for determining the relative value units shall be adopted from the "Medicare RBRVS Fee Schedule" as adopted by reference in R 418.10107 using geographical information for Michigan. The geographical information, (GPCI), for these rules is a melded average using 60% of the figures published for Detroit added to 40% of the figures published for the rest of the state.
- (4) The maximum allowable payment for medicine, surgery, and radiology services shall be determined by multiplying the relative value unit assigned to the procedure times the conversion factor listed in the reimbursement section, part 10 of these rules.
- (5) Procedure codes from "Medicare's National Level II Codes HCPCS" as adopted by reference in 418.10107 shall be used to describe all of the following services:
 - (a) Ambulance services.
 - (b) Medical and surgical expendable supplies.
 - (c) Dental procedures.
 - (d) Durable medical equipment.
 - (e) Vision and hearing services.
 - (f) Home health services.
- (6) The following medical services shall be considered "By Report" (BR):
 - (a) All ancillary services listed in "Medicare's National Level II Codes HCPCS", referenced in R 418.10106.
 - (b) All CPT® procedure codes that do not have an assigned relative value.

R 418.10107 Source documents; adoption by reference.

Rule 107. The following documents are adopted by reference in these rules and are available for inspection at, or purchase from, the bureau of workers' and unemployment compensation, health care services division, P.O. Box 30016, Lansing, Michigan 48909, at the costs listed or from the organizations listed:

- (a) "Physicians' Current Procedural Terminology (CPT®) 2003," standard edition, copyright October 2002, published by the American Medical Association, PO Box 930876, Atlanta GA, 31193-0876, order # OP054103BTF, 1-800-621-8335. The publication may be purchased at a cost of \$54.95 plus \$9.95 for shipping and handling as of the time of adoption of these rules. Permission to use this publication is on file in the bureau.
- (b) "Medicare's National Level II Codes, HCPCS, 2003," copyright November 2002, published by the American Medical Association, P.O. Box 930876 Atlanta GA 31193-0876, order # OP095103BTF,

customer service 1-800-621-8335. The publication may be purchased at a cost of \$84.95, plus \$11.95 for shipping and handling as of the time of adoption of these rules.

(c) "Medicare RBRVS 2002: The Physicians' Guide," published by The American Medical Association, 515 North State Street, Chicago IL, 60610, order #OPO59602BLC, 1-800-621-8335. The publication may be purchased at a cost of \$74.95, plus \$8.95 shipping and handling as of the time of adoption of these rules.

(d) "Medicare RBRVS 2003: The Physicians' Guide," published by the American Medical Association, 515 North State Street, Chicago IL, 60610, 1-800-621-8335. The publication may be purchased at a cost of \$79.95, plus \$11.95 shipping and handling as of the time of adoption of these rules

(e) "International Classification of Diseases, ICD-9-CM 2003" copyright 2002, American Medical Association, P.O. Box 930876, Atlanta GA 31193-0876, order #OP065103BTF, 1-800-621-8335. The publication may be purchased at a cost of \$84.95, plus \$11.95 shipping and handling as of the time of adoption of these rules.

(f) "2002 Drug Topics Red Book," published by Medical Economics Company Inc., Five Paragon Drive, Montvale, NJ 07645-1742, 1-800-678-5689. The publication may be purchased at a cost of \$64.95, plus \$7.95 for shipping and handling as of the time of adoption of these rules.

(g) "Michigan Uniform Billing Manual," developed in cooperation with the American Hospital Association's National Uniform Billing Committee, published by Michigan Health and Hospital Association, 6215 West St. Joseph Highway, Lansing, MI 48917, 517-886-8366. As of the time of adoption of these rules, the cost of the publication is \$160.00, plus 6% sales tax.

(h) "Relative Value Guide: A Guide For Anesthesia Values 2002," published by the American Society of Anesthesiologists, 520 N Northwest Highway, Park Ridge, IL 60068-2573, 1-847-825-5586. As of the time of adoption of these rules, the cost of the publication, including shipping is \$15.00.

R 418.10108 Definitions; A to I.

Rule 108. As used in these rules:

(a) "Act" means 1969 PA 317, MCL 418.101 et seq.

(b) "Adjust" means that a carrier or a carrier's agent reduces a health care provider's request for payment to the maximum fee allowed by these rules, to a provider's usual and customary charge, or, when the maximum fee is by report, to a reasonable amount. Adjust also means when a carrier re-codes a procedure, or reduces payment as a result of professional review.

(c) "Appropriate care" means health care that is suitable for a particular person, condition, occasion, or place.

(d) "BR" or "by report" means that the procedure is not assigned a relative value unit, (RVU) or a maximum fee and requires a written description.

(e) "Bureau" means the bureau of workers' disability compensation in the department of consumer and industry services.

(f) "Carrier" means an organization which transacts the business of workers' disability compensation insurance in Michigan and which may be any of the following:

(i) A private insurer.

(ii) A self-insurer.

(iii) One of the funds of chapter 5 of the act.

(g) "Case" means a covered injury or illness which occurs on a specific date and which is identified by the worker's name and date of injury or illness.

(h) "Case record" means the complete health care record which is maintained by a carrier and which pertains to a covered injury or illness that occurs on a specific date.

- (i) “Complete procedure” means a procedure that contains a series of steps that are not to be billed separately.
- (j) “Covered injury or illness” means an injury or illness for which treatment is mandated by section 315 of the act.
- (k) “Current procedural terminology”, (CPT)” means a listing of descriptive terms and identifying codes and provides a uniform nationally accepted nomenclature for reporting medical services and procedures. “Current procedural terminology” provides instructions for coding and claims processing.
- (l) “Dispute” means a disagreement between a carrier or a carrier’s agent and a health care provider on the application of these rules.
- (m) “Durable medical equipment” means specialized equipment which is designed to stand repeated use, which is used to serve a medical purpose, and which is appropriate for home use.
- (n) “Emergency condition” means that a delay in treating a patient would lead to a significant increase in the threat to the patient’s life or to a body part.
- (o) “Established patient” means a patient whose medical and administrative records for a particular covered injury or illness are available to the provider.
- (p) “Expendable medical supply” means a disposable article that is needed in quantity on a daily or monthly basis.
- (q) “Facility” means an entity licensed by the state in accord with 1978 PA 368, MCL 333.1101 et seq. The office of an individual practitioner is not considered a facility.
- (r) “Focused review” means the evaluation of a specific health care service or provider to establish patterns of use and dollar expenditures.
- (s) “Follow-up days” means the days of care following a surgical procedure that are included in the procedure’s maximum allowable payment, but does not include care for complications. If the surgical procedure lists “xxx” for the follow-up days, then the global concept does not apply. If “yyy” is listed for follow-up days, then the carrier shall set the global period. If “zzz” is used, then the procedure code is part of another service and falls within the global period of the other service.
- (t) “Health care organization” means a group of practitioners or individuals joined together to provide health care services and includes any of the following:
 - (i) A health maintenance organization.
 - (ii) An industrial or other clinic.
 - (iii) An occupational health care center.
 - (iv) A home health agency.
 - (v) A visiting nurse association.
 - (vi) A laboratory.
 - (vii) A medical supply company.
 - (viii) A community mental health board.
- (u) “Health care review” means the review of a health care case or bill, or both, by a carrier, and includes technical health care review and professional health care review.
- (v) “Incidental surgery” means a surgery which is performed through the same incision, on the same day, by the same doctor of dental surgery, doctor of medicine, doctor of osteopathy, or doctor of podiatry and which is not related to diagnosis.
- (w) “Independent medical examination” means an examination and evaluation which is requested by a carrier or an employee and which is conducted by a different practitioner than the practitioner who provides care.
- (x) “Independent procedure” means a procedure that may be carried out by itself, separate and apart from the total service that usually accompanies it.
- (y) “Industrial medicine clinic” also referred to as an “occupational health clinic” means an organization that primarily treats injured workers. The industrial medicine clinic or occupational clinic may be a

health care organization as defined by these rules or may be a clinic owned and operated by a hospital for the purposes of treating injured workers.

(z) “Insured employer” means an employer who purchases workers’ compensation insurance from an insurance company that is licensed to write insurance in the state of Michigan.

R 418.10116 Provider responsibilities.

Rule 116. (1) When a licensed facility or practitioner licensed in this state treats an injured worker for a compensable work-related injury or illness and bills the workers’ compensation carrier, the carrier shall reimburse the licensed provider or facility the maximum allowable payment, or the providers’ usual and customary charge, whichever is less, in accord with these rules. A provider shall do both of the following:

(a) Promptly bill the carrier or the carrier’s designated agent after the date of service.

(b) Submit the bill for the medical services provided to treat an injured worker on the proper claim form, to the workers’ compensation carrier or the carrier’s designated agent and attach the documentation required in part 9 of these rules.

(2) If the provider has not received payment within 30 days of submitting a bill, then the provider shall resubmit the bill to the carrier and add a 3% late fee.

R 418.10117 Carrier responsibilities.

Rule 117. (1) The carrier or its designated agent shall assure that a billing form is completed properly before making payment to the licensed provider or licensed facility.

(2) A carrier may designate a third party to receive provider bills on its behalf. If a carrier instructs the provider to send the medical bills directly to the third party, then the 30-day limit of this rule begins when the third party receives the bill. The carrier is responsible for forwarding bills and medical documentation when there is a third party reviewing medical bills for the carrier.

(3) A carrier or designated agent shall make payment of an unadjusted and properly submitted bill within 30 days of receipt of a properly submitted bill or shall add a self-assessed 3% late penalty to the maximum allowable payment as required by these rules.

(4) A carrier or designated agent shall record payment decisions on a form entitled “The Carrier’s Explanation of Benefits” using a format approved by the bureau. The carrier or designated agent shall keep a copy of the explanation of benefits and shall send a copy to the provider and to the injured worker. The carrier’s explanation of benefits shall list a clear reason for the payment adjustment or amount disputed and shall notify the provider what information is required for additional payment.

(5) A carrier or designated agent shall make payment of an adjusted bill or portion of an adjusted bill within 30 days of receipt of the properly submitted bill. If a carrier or designated agent rejects a bill in its entirety, then the carrier or designated agent shall notify the provider of the rejection within 30 days after receipt of a properly submitted bill.

(6) If a carrier requests the provider to send duplicated copies of the documentation required in part 9 or additional medical records not required by these rules, then the carrier shall reimburse the provider for the copying charges in accord with R 418.10118.

(7) When a case is disputed by the carrier, and when the carrier has not issued a copy of the formal notice of dispute to the medical provider, then the carrier’s explanation of benefits shall be sent in response to the provider’s initial bill notifying the provider of non-payment of the bill due to the dispute.

R 418.10121 Rehabilitation nurse or nurse case manager visits; additional services.

Rule 121. (1) If a carrier assigns a rehabilitation nurse or nurse case manager to an injured worker's case, and the carrier requires that the nurse accompany the injured worker to provider visits, then the carrier shall reimburse the provider for the additional time.

(2) The provider may bill the rehabilitation nurse or nurse case manager visit in addition to the evaluation and management service using code RN001. The carrier shall reimburse the provider \$25.00 for RN001.

(3) Procedure code RN001 shall be reimbursed at the maximum allowable fee if the provider bills the procedure during the global period for a surgical service.

R 418.10202 Evaluation and management services.

Rule 202. (1) Procedure code 97010 performed in conjunction with an evaluation and management office visit shall not be reimbursed as a separate procedure.

(2) Minor medical and surgical supplies routinely used by the practitioner or health care organization in the office visit shall not be billed separately.

(3) Supplies or other services over and above those usually incidental to an office visit or other outpatient visit for the evaluation and management of a patient shall be billed separately under procedure code 99070.

(4) If an office visit is performed outside of the provider's normal business hours, the provider may bill the add on procedure codes describing an office visit performed after hours or on Sundays or holidays. A provider may bill add on procedure code 99050 in addition to the evaluation and management service, if a service is rendered between the hours of 6 p.m. and 7 a.m., Monday through Saturday. A provider may bill add on procedure code 99054 if a service is rendered on Sundays or holidays until 7 a.m. of the following regular working day.

(5) A procedure that is normally part of an examination or evaluation shall not be billed independently. Range of motion shall not be reimbursed as a separate procedure in addition to the evaluation and management service unless the procedure is medically necessary and appropriate for the injured worker's condition and diagnosis.

(6) The maximum allowable payment for the evaluation and management service shall be determined by multiplying the relative value unit, RVU, assigned to the procedure code, times the conversion factor listed in the reimbursement section of these rules.

(7) The level of an office visit or other outpatient visit for the evaluation and management of a patient is not guaranteed and may change from session to session. The level of service shall be consistent with the type of presenting complaint and supported by documentation in the record.

(8) Procedure codes 99455 and 99456 describing work-related or medical disability evaluation services shall not be used to describe an evaluation and management service for treating a work-related injury or illness. Procedure codes 99201-99350 shall be used to describe the practitioner's medical treatment of an injured worker.

(9) The carrier shall not reimburse the provider for procedure codes 90782-90799, administration of therapeutic injections, if billed in conjunction with an evaluation and management service. The medication administered in the therapeutic injection shall be billed using procedure code 99070 or the appropriate J-code from Medicare's National Level II Codes, as adopted by reference in R 418.10107, and shall be identified with the national drug code number. The provider shall be reimbursed at the average wholesale price of the drug. If the provider does not bill an evaluation and management service, then the appropriate procedure code describing the administration of the drug may be billed. The administered drug is billed additionally and is payable at the average wholesale price of the drug.

(10) The provider may bill immunization procedure codes in addition to the evaluation and management procedure code. If the provider bills an immunization, then the vaccine is described with procedure

codes 90476-90748, and the administration of the vaccine is described with procedure code 90471 or 90472. The carrier shall reimburse the vaccine at the average wholesale price of the vaccine plus the cost of administration billed with procedure code 90471 or 90472.

R 418.10902 Billing for injectable medications, other than vaccines and toxoids, in the office setting.

Rule 902. (1) The provider shall not bill the carrier for procedure codes 90782-90799, administration of therapeutic injections, if billed in conjunction with an evaluation and management procedure code. If an evaluation and management procedure code, 99201-99499, is not listed, then procedure codes 90782-90799 may be billed to describe the administration of the medication.

(2) The injection medication shall be billed with either 99070, the unlisted drug and supply code from physicians' current procedural terminology, (CPT®), or the specific J-code procedure from Medicare's National Level II Codes as adopted by reference in R 418.10107.

(3) The provider shall list the NDC or national drug code for the medication in box 19 or 24K of the HCFA 1500.

(4) The carrier shall reimburse the medication at average wholesale price, (AWP) according to the Redbook, as adopted by reference in R 418.10107.

(5) If the provider does not list the national drug code for the medication, the carrier shall reimburse the medication using the least costly NDC listed by Redbook for that medication.

R 418.10904 Procedure codes and modifiers.

Rule 904. (1) A health care service shall be billed with procedure codes adopted from "Physicians' Current Procedural Terminology (CPT®)" or "HCPCS, Medicare's National Level II Codes," as referenced in R 418.10107. Procedure codes from "Physicians' Current Procedural Terminology (CPT®)" shall not be included in these rules, but shall be listed in a separate manual published by the bureau. Refer to "Physicians' Current Procedural Terminology (CPT®)" for standard billing instructions, except where otherwise noted in these rules. A provider billing services described with procedure codes from "Medicare's National Level II Codes" shall refer to the publication as adopted by reference in R 418.10107 for coding information.

(2) The following ancillary service providers shall bill codes from "HCPCS, Medicare's National Level II Codes," as adopted by reference in R 418.10107, to describe the ancillary services:

- (a) Ambulance providers.
- (b) Certified orthotists and prosthetists.
- (c) Medical suppliers, including expendable and durable equipment.
- (d) Hearing aid vendors and suppliers of prosthetic eye equipment.
- (3) A home health agency.

(4) If a practitioner performs a procedure that cannot be described by one of the listed CPT® or HCPCS codes, then the practitioner shall bill the unlisted procedure code. An unlisted procedure code shall only be reimbursed when the service cannot be properly described with a listed code and the documentation supporting medical necessity includes all of the following:

- (a) Description of the service.
- (b) Documentation of the time, effort, and equipment necessary to provide the care.
- (c) Complexity of symptoms.
- (d) Pertinent physical findings.
- (e) Diagnosis.
- (f) Treatment plan.

(5) The provider shall add a modifier code, found in Appendix A of the CPT[®] publication, as adopted by reference in R 418.10107, following the correct procedure code describing unusual circumstances arising in the treatment of a covered injury or illness. When a modifier code is applied to describe a procedure, a report describing the unusual circumstances shall be included with the charges submitted to the carrier.

(6) Applicable modifiers from table 10904 shall be added to the procedure code to describe the type of practitioner performing the service. The required modifier codes for describing the practitioner are as follows:

Table 10904

Modifier Codes

-SA	When an anesthesiologist supervises, or provides medical direction to, a certified registered nurse anesthetist or anesthesiology resident.
-AA	When an anesthesiologist bills for services performed by the anesthesiologist.
-AH	When a licensed psychologist bills a diagnostic service or a therapeutic service, or both.
-AJ	When a certified social worker bills a therapeutic service.
-AK	When a nurse who has a specialty certification, as defined in these rules, treats an injured worker and bills a service other than assistant at surgery.
-AL	A limited license psychologist billing a diagnostic service or a therapeutic service.
-AU	When a physician's assistant treats an injured worker for a medical service other than an assistant at surgery.
-CS	When a limited licensed counselor bills for a therapeutic service.
-LC	When a licensed professional counselor performs a therapeutic service.
-MF	When a licensed marriage and family therapist performs a therapeutic service.
-ML	When a limited licensed marriage and family therapist performs a service.
-TC	When billing for the technical component of a radiology service.
-QX	When a certified registered nurse anesthetist performs a service under the medical direction of an anesthesiologist.
-QZ	When a certified registered nurse anesthetist performs anesthesia services without medical direction.

R 418.10915 Billing for anesthesia services.

Rule 915. (1) Anesthesia services shall consist of 2 components. The 2 components are base units and time units. Each anesthesia procedure code is assigned a value for reporting the base units. The base units for an anesthesia procedure shall be as specified in the publication entitled "The Relative Value Guide, A Guide For Anesthesia Values," as adopted by reference in R 418.10107. The anesthesia codes and base units shall be published separate from these rules by the bureau.

(2) The anesthesia base units shall include all of the following:

- (a) The pre-anesthesia evaluation.
- (b) Preparation.
- (c) Post-anesthesia care.

(3) Anesthesia time shall begin when the provider physically starts to prepare the patient for induction of anesthesia in the operating room and shall end when the provider is no longer in constant attendance. The total time in minutes shall be listed in the days or units column of the HCFA 1500 claim form.

(4) An anesthesia service may be administered by either an anesthesiologist, anesthesia resident, a certified registered nurse anesthetist, or a combination of a certified registered nurse anesthetist, and a physician providing medical direction or supervision. When billing for both the anesthesiologist and a certified registered nurse anesthetist, the anesthesia procedure code shall be listed on 2 lines of the HCFA 1500 with the appropriate modifier on each line.

(5) One of the following modifiers shall be added to the anesthesia procedure code to determine the appropriate payment for the time units:

- (a) Modifier -AA indicates the anesthesia service is administered by the anesthesiologist.
- (b) Modifier -SA indicates the anesthesiologist has supervised a certified registered nurse anesthetist who is employed by either a hospital, the anesthesiologist or is self-employed.
- (c) Modifier -QX indicates the certified registered nurse anesthetist has administered the procedure under the direction of the anesthesiologist.
- (d) Modifier -QZ indicates the certified registered nurse anesthetist has administered the complete anesthesia service without medical direction of an anesthesiologist.
- (6) Total anesthesia units shall be calculated by adding the anesthesia base units to the anesthesia time units.
- (7) Anesthesia services may be administered by any of the following:
 - (a) A licensed doctor of dental surgery.
 - (b) A licensed doctor of medicine.
 - (c) A licensed doctor of osteopathy.
 - (d) A licensed doctor of podiatry.
 - (e) A certified registered nurse anesthetist.
 - (f) A licensed anesthesiology resident.
- (8) If a surgeon provides the anesthesia service, the surgeon will only be reimbursed the base units for the anesthesia procedure.
- (9) If a provider bills physical status modifiers, then documentation shall be included with the bill to support the additional risk factors. When billed, the physical status modifiers are assigned unit values as defined in the following table:

	Anesthesiology Physical Status Modifiers	Unit Value
P1	A normal healthy patient.	0
P2	A patient who has a mild systemic disease.	0
P3	A patient who has a severe systemic disease.	1
P4	A patient who has a severe systemic disease that is a constant threat to life.	2
P5	A moribund patient who is expected not to survive without the operation.	3
P6	A declared brain-dead patient whose organs are being removed for donor purposes.	0

- (10) Procedure code 99140 shall be billed as an add-on procedure if an emergency condition, as defined in R 418.10108, complicates anesthesia. Procedure code 99140 shall be assigned 2 anesthesia units. Documentation supporting the emergency shall be attached to the bill.
- (11) If a pre-anesthesia evaluation is performed and surgery is not subsequently performed, then the service shall be reported as an evaluation and management service.

R 418.10916 Billing for minor practitioner services performed in an outpatient hospital setting.

Rule 916. (1) This rule applies to the practitioner component of minor procedures that can safely be performed in a setting other than an outpatient hospital. If a practitioner or health care organization submits a bill for a procedure code listed in table 10916 in the outpatient hospital setting, then modifier code -26 shall be added to the procedure code and the carrier shall pay the maximum allowable fee listed in the manual for the professional portion of the procedure, or, if the professional portion is not listed, then the carrier shall pay 40% of the maximum allowable fee for the procedure.

- (2) This rule shall not apply to any of the following instances:
 - (a) During an inpatient, observation stay, or services appropriately performed in the emergency room department.
 - (b) For procedures performed during an outpatient surgery.

(c) If procedures from table 10916 are performed during the course of an outpatient setting in conjunction with a procedure that is appropriately performed in the outpatient setting; for example, a radiology procedure with a myelogram or outpatient surgery.

(3) This rule shall not apply if the procedure is performed by an emergency room physician granted privileges by the hospital to practice in the emergency room.

(4) Table 10916 reads as follows:

TABLE 10916				
10060	20665-20670	30901	65205-65222	92531-92599
10120	23065	40800	67700	93740
10140	23330	40804	67715-67805	94010-95065
10160	24065	40820	67810-67825	95115-95199
11000	24200	41000-41005	67938	95180
11040	25065	41800-41805	69000	95860-95904
11100-11101	26010	42300	69020	95930-95937
11720-11750	27040	42310	70030-70360	98925-98943
11900-11901	27086	45300	70450-71030	99195
12001-12004	27323	45330	71100-72220	99201-99215
15860	27613	46050	73000-74420	99241-99245
16000	28001	50398	74400-74420	90801-90815
16020-16030	28190	51000	78300-78699	
20500	30000-30100	51700-51710	90901-90911	
20520	30200-30210	53600-53661	92002-92014	
20550-20610	30300	53670-53675	92230-92504	

R 418.10922 Hospital billing instructions.

Rule 922. (1) A hospital billing for the facility portion of emergency department, outpatient, and inpatient services, shall bill facility charges on the UB-92 national uniform billing claim form and shall include revenue codes, ICD.9.CM coding, and CPT[®] codes for surgical, radiological, laboratory, medicine, and evaluation and management services.

(2) Procedures listed in Table 10922 can safely be performed in an outpatient setting other than an outpatient hospital. When procedures listed in Table 10922 are performed in the outpatient hospital setting, the carrier shall pay the maximum allowable fee listed in the manual for the technical component of the procedure, or 60% of the maximum allowable fee if the technical component is not listed. This rule does not apply to any of the following:

(a) During the first 10 days of care commencing for an injury.

(b) During an inpatient or observation stay or services appropriately performed in the emergency room department.

(c) Procedures performed during the time of an outpatient surgery.

(d) If a procedure included in Table 10922 is combined with another procedure not found on Table 10922; for example, a radiology procedure with a myelogram or outpatient surgery.

(3) Table 10922 reads as follows:

TABLE 10922				
10060	20665-20670	30901	65205-65222	92531-92599
10120	23065	40800	67700	93740
10140	23330	40804	67715-67805	94010-95065
10160	24065	40820	67810-67825	95115-95199
11000	24200	41000-41005	67938	95180
11040	25065	41800-41805	69000	95860-95904

11100-11101	26010	42300	69020	95930-95937
11720-11750	27040	42310	70030-70360	98925-98943
11900-11901	27086	45300	70450-71030	99195
12001-12004	27323	45330	71100-72220	99201-99215
15860	27613	46050	73000-74020	99241-99245
16000	28001	50398	74400-74420	90801-90815
16020-16030	28190	51000	78300-78699	
20500	30000-30100	51700-51710	90901-90911	
20520	30200-30210	53600-53661	92002-92014	
20550-20610	30300	53670-53675	92230-92504	

(4) If a hospital clinic, other than an industrial or occupational medicine clinic, bills under a hospital's federal employer identification number, then a hospital clinic facility service shall be identified by using revenue code 510 "clinic."

(5) A hospital shall bill the physical, occupational, and speech therapy services on the UB-92 national uniform billing claim form and the hospital shall be paid according to the hospital's payment ratio. The hospital shall provide the carrier with the initial evaluation and progress notes every 30 days.

(6) A hospital system-owned office practice shall not bill facility fees

(7) A hospital or hospital system-owned industrial or occupational clinic providing occupational health services shall not bill facility fees.

R 418.10923 Hospital billing for practitioner services.

Rule 923. (1) A hospital billing for practitioner services, including a certified registered nurse anesthetist, a physician, a nurse who has a specialty certification, and a physician's assistant, shall submit bills on a HCFA 1500 form and the hospital shall use the appropriate procedure codes adopted by these rules. A hospital shall bill for professional services provided in the hospital clinic setting as practitioner services on a HCFA 1500 form using site of service 2 or 22. A hospital or hospital system-owned office practice shall bill all office services as practitioner services on a HCFA 1500 form using site of service 3 or 11. A hospital or hospital system-owned industrial or occupational clinic providing occupational health services for injured workers shall bill all clinic services as practitioner services on a HCFA 1500 using site of service 3 or 11. A hospital or hospital system-owned industrial or occupational clinic shall not use emergency department evaluation and management procedure codes. Radiology and laboratory services may be billed as facility services on the UB-92.

(2) A hospital billing for the professional component of a medicine service, excluding physical medicine, occupational medicine, or speech therapy, evaluation and management or surgical service using site of service 2 or 22 shall bill the service on a HCFA 1500 claim form and add modifier -26 after the appropriate procedure code to identify the professional component of the service. The carrier shall pay the maximum allowable fee listed in the manual for the professional component of the procedure. If the professional component is not listed, then the carrier shall pay 40% of the maximum allowable fee.

(3) A hospital billing for a radiologist's or pathologist's services shall bill the professional component of the procedure on the HCFA 1500 claim form and shall place modifier -26 after the appropriate procedure code to identify the professional component of the service. The carrier shall pay the maximum allowable fee listed in the manual for the professional component of the procedure. If the professional component is not listed, then the carrier shall pay 40% of the maximum allowable fee.

(4) A hospital billing for a certified registered nurse anesthetist shall bill only time units of an anesthesiology procedure and use modifier -QX with the appropriate anesthesia code, except in the absence of medical direction from a supervising anesthesiologist.

R 418.10924 RESCINDED.

R 418.10925 Billing requirements for facility other than a hospital.

Rule 925. (1) A facility, other than a hospital, that is licensed by the state shall bill the facility services on the UB-92 national uniform billing claim form and shall include the revenue codes contained in the Michigan Uniform Billing Manual, ICD-9-CM coding for diagnoses and procedures, and CPT[®] procedure codes for surgical, radiological, laboratory, and medicine and evaluation and management services.

(2) If billing radiological services or laboratory services, a facility, other than a hospital, that is licensed by the state shall bill only the technical component on the UB-92 national uniform billing claim form.

(3) If a facility, other than a hospital, that is licensed by the state bills for the professional component of a radiological service, the professional component of a laboratory service, physician or physician's assistant service, or nurse practitioner service, then the service shall be billed on a HCFA 1500 claim form, using the appropriate CPT[®] procedure code and modifier -26. If billing for a certified nurse anesthetist service, the facility will modify the procedure with modifier QX or QZ.

(4) If billing for services, a facility, other than a hospital, that is licensed by the state shall include a report that describes the services provided and the condition of the patient.

R 418.101002 Conversion factors for medical, surgical, and radiology procedure codes.

Rule 1002. (1) The bureau shall determine the conversion factors for medical, surgical, and radiology procedures. The conversion factor shall be used by the bureau for determining the maximum allowable payment for medical, surgical, and radiology procedures. The maximum allowable payment shall be determined by multiplying the appropriate conversion factor times the relative value unit assigned to a procedure. The relative value units are listed for the medicine, surgical, and radiology procedure codes in a manual separate from these rules. The manual shall be published annually by the bureau using codes adopted from "Physicians' Current Procedural Terminology (CPT[®])" as referenced in R 418.10107(a). The Bureau shall determine the relative values by using information found in the "Medicare RBRVS: The Physicians'" as adopted by reference in R 418.10107(c).

(2) The conversion factor for medicine, radiology, and surgical procedures shall be \$47.01 for the year 2003.

R 418.101204 Carrier's professional health care review program.

Rule 1204. (1) A carrier may have another entity perform professional health care review activities on its behalf.

(2) The bureau shall certify a carrier's professional health care review program pursuant to R 418.101206.

(3) The carrier shall submit a completed form entitled "Application for Certification of the Carrier's Professional Health Care Review Program" to the bureau. If the carrier is a self-insured employer or self-insured group fund, then the service company information shall be included on the form in addition to the carrier and review company information. In addition to the completed form, the carrier shall submit all of the following:

(a) The methodology used to perform professional review.

(b) A listing of the licensed, registered, or certified health care professionals reviewing the health care bills or establishing guidelines for technical review. In addition, the proof of current licensure and qualifications for the health care professionals shall be included with the completed application.

(c) A list of the carrier's peer review staff, including specialty.

- (4) The workers' compensation carrier as defined by these rules maintains full responsibility for compliance with these rules.
- (5) The carrier shall determine medical appropriateness for the services provided in connection with the treatment of a covered injury or illness, using published, appropriate standard medical practices and resource documents. Utilization review shall be performed using 1 or both of the following approaches:
 - (a) Review by licensed, registered, or certified health care professionals.
 - (b) The application by others of criteria developed by licensed, registered, or certified health care professionals.
- (6) The licensed, registered, or certified health care professionals shall be involved in determining the carrier's response to a request by a provider for reconsideration of its bill.
- (7) The licensed, registered, or certified health care professionals shall have suitable occupational injury or disease expertise, or both, to render an informed clinical judgment on the medical appropriateness of the services provided.
- (8) When peer review is utilized, a health care professional of the same specialty type as the provider of the medical service shall perform the review.

R 418.101206 Certification of professional health care review program.

- Rule 1206. (1) The bureau shall certify the carrier's professional health care review program.
- (2) A carrier, or the reviewing entity on behalf of the carrier, shall apply to the bureau for certification of a carrier's professional health care review program in the manner prescribed by the bureau.
- (3) A carrier shall receive certification if the carrier or the carrier's review company provides to the bureau a description of its professional health care review program and includes all of the information specified in R 418.101204. The bureau shall send a copy of the certification of the carrier's review program to the carrier, and to the service company and review company when appropriate.

PART 15 BUREAU DEVELOPED FEE TABLES

R 418.101501 Tables for health care services and procedures.

- Rule 1501. (1) Procedures that do not have relative values assigned are referenced in part 15 of these rules and have assigned fees developed by the bureau through rule promulgation and shall be published as part of these rules.
- (2) The bureau shall publish separate from these rules a manual containing all of the following:
- (a) Procedure codes and relative value units for the medical, surgical, and radiology services.
 - (b) Reference to the ancillary services identified in Medicare's Level II codes as adopted by reference in R 418.10107.
 - (c) Maximum payment ratios for hospitals.
 - (d) A copy of the billing forms and instructions for completion.

R 418.101502 Miscellaneous medical and surgical procedures.

Rule 1502. The medical and surgical procedures without assigned relative values or specific payment methodologies are listed in the following table:

99000	Handling or conveyance of specimen.....	\$5.00
99025	New patient exam with a starred surgical procedure	\$55.00
99050	After hour office service Monday-Friday (R 418.10202).....	\$5.00
99052	Services between 10:00pm and 8:00am	\$5.00
99054	Weekend, holiday after hour office service	\$12.00
99199	Carrier arranged missed appointment. (R 418.10111).....	BR
99199-32	Carrier or requested report, per page (R 418.10114).....	\$25.00

WC700	Prescription drug dispense fee (R 418.10912(4))	\$4.00
99455-32	Carrier requested visit for job evaluation (R 418.10404)	\$70.00
RN001-32	Rehabilitation or case manager visit (R 418.10121)	\$25.00

R 418.101503 Laboratory procedure codes and maximum allowable payments.

Rule 1503. (1) The laboratory procedure codes, listed in the table in this rule have maximum allowable payments established by the bureau. All other laboratory procedure codes listed in CPT® as adopted by reference in R 418.10107 shall be paid as a by report procedure.

(2) The pathology procedure codes found in the 80000 series of procedure codes listed in CPT® as adopted by reference in R 418.10107 have assigned relative values and shall be published by the bureau in a separate manual.

Code	Descriptor of laboratory procedure code	MAP
82009	test for acetone/ketones	\$3.30
82010	acetone assay	\$24.20
82042	assay of urine albumin	\$3.30
82055	assay of ethanol	\$31.00
82075	assay of breath ethanol	\$35.00
82140	assay of ammonia	\$9.90
82145	assay of amphetamines	\$9.90
82150	assay of amylase	\$8.80
82175	assay of arsenic	\$13.20
82180	assay of ascorbic acid	\$16.50
82205	assay of barbiturates	\$26.00
82330	assay of calcium	\$23.00
82340	assay of calcium in urine	\$11.00
82375	assay, blood carbon monoxide	\$19.80
82436	assay of urine chloride	\$7.70
82482	assay, rbc cholinesterase	\$9.90
82486	gas/liquid chromatography	\$27.00
82487	paper chromatography	\$9.63
82488	paper chromatography	\$9.63
82489	thin layer chromatography	\$9.63
82495	assay of chromium	\$16.50
82507	assay of citrate	\$13.20
82540	assay of creatine	\$19.80
82550	assay of ck (cpk)	\$8.00
82552	assay of cpk in blood	\$23.25
82553	creatinine, mb fraction	\$20.90
82600	assay of cyanide	\$23.10
82705	fats/lipids, feces, qual	\$13.20
82710	fats/lipids, feces, quant	\$32.18
82735	assay of fluoride	\$16.50
82800	blood ph	\$3.30
82803	blood gases: ph, po2 & pco2	\$13.20
82951	glucose tolerance test (gtt)	\$19.00
83015	heavy metal screen	\$13.20
83018	quantitative screen, metals	\$5.00
83050	blood methemoglobin assay	\$19.80
83051	assay of plasma hemoglobin	\$13.20
83055	blood sulfhemoglobin test	\$17.60
83060	blood sulfhemoglobin assay	\$19.80
83069	assay of urine hemoglobin	\$3.30

Code	Descriptor of laboratory procedure code	MAP
83070	assay of hemosiderin, qual	\$4.00
83071	assay of hemosiderin, quant	\$4.13
83540	assay of iron	\$8.00
83550	iron binding test	\$9.08
83655	assay of lead	\$16.50
83690	assay of lipase	\$9.90
83715	assay of blood lipoproteins	\$24.20
83718	assay of lipoprotein	\$8.25
83719	assay of blood lipoprotein	\$8.25
83721	assay of blood lipoprotein	\$8.25
83785	assay of manganese	\$16.50
83805	assay of meprobamate	\$25.58
83825	assay of mercury	\$16.50
83885	assay of nickel	\$13.20
83925	assay of opiates	\$5.78
83930	assay of blood osmolality	\$13.20
83986	assay of body fluid acidity	\$3.30
83992	assay for phencyclidine	\$17.60
84078	assay alkaline phosphatase	\$19.80
84080	assay alkaline phosphatases	\$27.50
84106	test for porphobilinogen	\$9.90
84110	assay of porphobilinogen	\$19.80
84155	assay of protein	\$3.00
84160	assay of serum protein	\$4.00
84255	assay of selenium	\$13.20
84300	assay of urine sodium	\$7.98
84311	spectrophotometry	\$6.88
84315	body fluid specific gravity	\$3.30
84375	chromatogram assay, sugars	\$9.63
84430	assay of thiocyanate	\$25.58
84478	assay of triglycerides	\$8.00
84540	assay of urine/urea-n	\$7.70
84545	urea-n clearance test	\$12.10
84550	assay of blood/uric acid	\$11.00
84600	assay of volatiles	\$22.55
84630	assay of zinc	\$13.20
85007	differential wbc count	\$7.00
85008	nondifferential wbc count	\$0.83
85009	differential wbc count	\$7.98
85013	hematocrit	\$2.48
85014	hematocrit	\$3.30
85018	hemoglobin	\$8.00
85021	automated hemogram	\$5.50
85022	automated hemogram	\$16.00
85027	automated hemogram	\$6.88
85031	manual hemogram, cbc	\$12.10
85041	red blood cell (rbc) count	\$3.30
85170	blood clot retraction	\$6.60
85175	blood clot lysis time	\$20.90
85345	coagulation time	\$9.90
85347	coagulation time	\$9.90
85348	coagulation time	\$9.90
85610	prothrombin time	\$7.70
85651	rbc sed rate, nonautomated	\$8.00
85652	rbc sed rate, automated	\$8.00

Code	Descriptor of laboratory procedure code	MAP
85730	thromboplastin time, partial	\$9.90
86038	antinuclear antibodies	\$26.00
86039	antinuclear antibodies (ana)	\$11.55
86060	antistreptolysin o, titer	\$7.98
86140	c-reactive protein	\$6.60
86308	heterophile antibodies	\$6.33
86430	rheumatoid factor test	\$6.60
86431	rheumatoid factor, quant	\$6.60
86592	blood serology, qualitative	\$6.33
87040	blood culture for bacteria	\$15.40
87075	culture bacteria anaerobic	\$33.00
87181	microbe susceptible, diffuse	\$3.30
87197	bactericidal level, serum	\$15.95
87205	smear, gram stain	\$7.98
87206	smear, fluorescent/acid stain	\$7.98
87210	smear, wet mount, saline/ink	\$7.98
87220	tissue exam for fungi	\$7.98
87250	virus inoculate, eggs/animal	\$79.98

R 418.101504 Orthotic and prosthetic codes and maximum allowable payments.

Rule 1504. The orthotic and prosthetic codes, the L-code procedures that have set fees are listed in this rule. All other L-code procedures shall be listed in Medicare's National Level II, HCPCS as adopted by reference in R 418.10107 and shall be reimbursed as a by report procedure. The maximum allowable fees for the L-code procedures are listed in the table in this rule:

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES) A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107	MAP
L0120	cervical, flexible, nonadjustable (foam collar)	\$17.29
L0130	cervical, flexible, thermoplastic collar, molded to patient	\$117.02
L0140	cervical, semi-rigid, adjustable (plastic collar)	\$42.00
L0150	cervical, semi-rigid, adjustable molded chin cup	\$74.60
L0160	cervical, semi-rigid, wire frame occipital/mandibular support	\$119.82
L0170	cervical collar, molded to patient model	\$796.31
L0172	cervical collar, semi-rigid, thermoplastic foam, two-piece	\$110.00
L0174	cervical collar, semi-rigid, thermoplastic foam, two-piece with	\$194.07
L0180	cervical, multiple post collar, occipital/mandibular supports,	\$314.44
L0190	cervical, multiple post collar, occipital/mandibular supports,	\$407.89
L0200	cervical, multiple post collar, occipital/mandibular supports,	\$430.12
L0210	thoracic rib belt, custom fitted	\$28.85
L0220	thoracic rib belt, custom fabricated	\$90.00
L0300	tlso, flexible (dorso-lumbar surgical support), custom fitted	\$124.59
L0310	tlso, flexible (dorso-lumbar surgical support), custom fabrica	\$242.46
L0315	tlso, flexible (dorso-lumbar surgical support), elastic type,	\$213.27
L0317	tlso, flexible (dorso-lumbar surgical support), hyperextension,	\$255.89
L0320	tlso, anterior-posterior control (taylor type), with apron	\$336.00
L0330	tlso, anterior-posterior-lateral control (knight-taylor type)	\$476.12
L0340	tlso, anterior-posterior-lateral-rotary control (arnold,	\$567.22
L0350	tlso, ant.-posterior-lateral-rotary control, flexion c	\$696.40
L0360	tlso, anterior-posterior-lateral-rotary control, flexion	\$1,551.72
L0370	tlso, ant.-posterior-lateral-rotary control, hyperextension	\$349.60
L0380	tlso, anterior-posterior-lateral-rotary control, with	\$614.95
L0390	tlso, anterior-posterior-lateral control molded to patient	\$1,400.30

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES)	MAP
A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107		
L0400	tlso, ant.-posterior-lateral control molded to patient model,	\$1,498.32
L0410	tlso, ant.-posterior-lateral control, two-piece construction,	\$1,626.40
L0420	tlso, anterior-posterior-lateral control, two-piece	\$1,886.09
L0430	tlso, anterior-posterior-lateral control, with interface	\$1,062.50
L0440	tlso, ant.-posterior-lateral control, with overlapping front	\$899.60
L0500	lso, flexible (lumbo-sacral surgical support), custom fitted	\$99.00
L0510	lso, flexible (lumbo-sacral surgical support), custom	\$214.00
L0515	lso, flexible (lumbo-sacral surgical support), elastic type, w/	\$176.00
L0520	lso, anterior-posterior-lateral control (knight, wilcox types),	\$358.03
L0530	lso, anterior-posterior control (macausland type), with apron	\$359.95
L0540	lso, lumbar flexion (williams flexion type)	\$387.68
L0550	lso, anterior-posterior-lateral control, molded to patient	\$1,273.00
L0560	lso, ant.-posterior-lateral control, molded to patient model,	\$1,590.56
L0565	lso, anterior-posterior-lateral control, custom fitted	\$902.84
L0600	sacroiliac, flexible (sacroiliac surgical support), custom	\$60.09
L0610	sacroiliac, flexible (sacroiliac surgical support), custom	\$224.46
L0620	sacroiliac, semi-rigid, (goldthwaite, osgood types), with apron	\$367.86
L0700	ctlso, ant.-posterior-lateral control, molded to patient model,	\$1,779.93
L0710	ctlso, anterior-posterior-lateral-control, molded to patient	\$1,882.90
L0810	halo procedure, cervical halo incorporated into jacket vest	\$2,371.87
L0820	halo procedure, cervical halo incorporated into plaster body	\$1,876.79
L0830	halo procedure, cervical halo incorporated into milwaukee type	\$2,829.65
L0860	addition to halo procedure, magnetic resonance image compatible	\$960.00
L0900	torso support, ptosis support, custom fitted.....	\$104.34
L0910	torso support, ptosis support, custom fabricated	\$302.09
L0920	torso support, pendulous abdomen support, custom fitted	\$110.60
L0930	torso support, pendulous abdomen support, custom fabricated.....	\$328.72
L0940	torso support, postsurgical support, custom fitted	\$103.04
L0950	torso support, postsurgical support, custom fabricated	\$299.10
L0960	torso support, postsurgical support, pads for postsurgical	\$60.01
L0970	tlso, corset front.....	\$99.30
L0972	lso, corset front.....	\$89.42
L0974	tlso, full corset	\$155.56
L0976	lso, full corset	\$138.95
L0978	axillary crutch extension	\$167.24
L0980	peroneal straps, pair.....	\$15.17
L0982	stocking supporter grips, set of four (4)	\$14.15
L0984	protective body sock, each	\$47.18
L1000	ctlso, inclusive of furnishing initial orthosis, including	\$1,763.98
L1010	addition to ctlso or scoliosis orthosis, axilla sling	\$58.31
L1020	addition to ctlso or scoliosis orthosis, kyphosis pad.....	\$75.11
L1025	addition to ctlso or scoliosis orthosis, kyphosis pad, floating	\$108.35
L1030	addition to ctlso or scoliosis orthosis, lumbar bolster pad.....	\$55.27
L1040	addition to ctlso or scoliosis orthosis, lumbar or lumbar rib	\$67.79
L1050	addition to ctlso or scoliosis orthosis, sternal pad	\$72.34
L1060	addition to ctlso or scoliosis orthosis, thoracic pad	\$83.09
L1070	addition to ctlso or scoliosis orthosis, trapezius sling	\$78.18
L1080	addition to ctlso or scoliosis orthosis, outrigger.....	\$48.08
L1085	addition to ctlso or scoliosis orthosis, outrigger, bilateral	\$133.74
L1090	addition to ctlso or scoliosis orthosis, lumbar sling.....	\$79.64
L1100	addition to ctlso or scoliosis orthosis, ring flange, plastic	\$138.17
L1110	addition to ctlso or scoliosis orthosis, ring flange, plastic	\$221.90
L1120	addition to ctlso, scoliosis orthosis, cover for upright, each	\$34.51
L1200	tlso, inclusive of furnishing initial orthosis only	\$1,424.25

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES)	MAP
A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107		
L1210	addition to tlso (low profile), lateral thoracic extension.....	\$227.34
L1220	addition to tlso (low profile), anterior thoracic extension	\$192.48
L1230	addition to tlso (low profile), milwaukee type superstructure.....	\$493.91
L1240	addition to tlso (low profile), lumbar derotation pad.....	\$67.46
L1250	addition to tlso (low profile), anterior asis pad.....	\$62.77
L1260	addition to tlso (low profile), anterior thoracic derotation	\$65.74
L1270	addition to tlso (low profile), abdominal pad	\$67.32
L1280	addition to tlso (low profile), rib gusset (elastic), each	\$74.95
L1290	addition to tlso (low profile), lateral trochanteric pad.....	\$68.29
L1300	other scoliosis procedure, body jacket molded to patient model.....	\$1,451.36
L1310	other scoliosis procedure, postoperative body jacket	\$1,493.46
L1499	spinal orthosis, not otherwise classisfied.....	BR
L1500	thkao, mobility frame (newington, parapodium types)	\$1,650.36
L1510	thkao, standing frame	\$828.93
L1520	thkao, swivel walker.....	\$1,486.64
L1685	ho, abduction control of hip joint, postop. Hip abduction	\$1,033.49
L1686	ho, abduction control of hip joint, postop. Hip abduction type,	\$653.04
L1800	ko, elastic with stays, prefabricated, includes fitting and	\$43.34
L1810	ko, elastic with joints, prefabricated, includes fitting and	\$81.00
L1815	ko, elastic or other elastic type material with condylar pad(s)	\$63.13
L1820	ko, elastic or other elastic type material with condylar pads	\$103.00
L1825	ko, elastic knee cap, prefabricated.....	\$35.83
L1830	ko, immobilizer, canvas longitudinal, prefabricated	\$57.01
L1832	ko, adjustable knee joints, positional orthosis, rigid support,	\$480.05
L1834	ko, without knee joint, rigid, custom fabricated.....	\$674.46
L1840	ko, derotation, medial-lateral, anterior cruciate ligament,	\$798.89
L1844	ko, single upright, thigh and calf, with adjustable flexion and	\$734.88
L1845	ko, double upright, thigh and calf, with adjustable flexion and	\$583.78
L1846	ko, double upright, thigh and calf, with adjustable flexion and	\$985.10
L1850	ko, swedish type, prefabricated	\$187.57
L1855	ko, molded plastic, thigh and calf sections, with double	\$954.77
L1858	ko, molded plastic, polycentric knee joints, pneumatic knee	\$1,221.93
L1860	ko, modification of supracondylar prosthetic socket, custom	\$1,383.48
L1870	ko, double upright, thigh and calf lacers, with knee joints,	\$909.28
L1880	ko, double upright, nonmolded thigh and calf cuffs/lacers with	\$550.82
L1900	afo, spring wire, dorsiflexion assist calf band, custom	\$234.40
L1902	afo, ankle gauntlet, prefabricated, includes fitting and	\$52.02
L1904	afo, molded ankle gauntlet, custom fabricated	\$333.00
L1906	afo, multi-ligamentus ankle support, prefabricated	\$86.17
L1910	afo, posterior, single bar, clasp attachment to shoe counter,	\$174.27
L1920	afo, single upright with static or adjustable stop (phelps or	\$286.29
L1930	afo, plastic, prefabricated	\$175.57
L1940	afo, plastic, custom fabricated	\$429.68
L1945	afo, molded to patient model, plastic, rigid anterior tibial	\$1,145.70
L1950	afo, spiral, (irm type), plastic, custom fabricated	\$647.18
L1960	afo, posterior solid ankle, plastic, custom fabricated	\$530.36
L1970	afo, plastic, with ankle joint, custom fabricated.....	\$618.24
L1980	afo, single upright free plantar dorsiflexion, solid stirrup,	\$318.88
L1990	afo, double upright free plantar dorsiflexion, solid stirrup,	\$459.09
L2000	kafo, single upright, free knee, free ankle, solid stirrup,	\$881.27
L2010	kafo, single upright, free ankle, solid stirrup, thigh and calf	\$803.35
L2020	kafo, double upright, free knee, free ankle, solid stirrup,	\$1,132.33
L2030	kafo, double upright, free ankle, solid stirrup, thigh and calf	\$880.19
L2036	kafo, full plastic, double upright, free knee, custom	\$2,022.35

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES)	MAP
A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107		
L2037	kafo, full plastic, single upright, free knee, custom	\$1,447.16
L2038	kafo, full plastic, without knee joint, multiaxis ankle, custom	\$1,024.83
L2040	hkafo, torsion control, bilateral rotation straps, pelvic	\$154.26
L2050	hkafo, torsion control, bilateral torsion cables, hip joint,	\$413.88
L2060	hkafo, torsion control, bilateral torsion cables, ball bearing	\$504.44
L2070	hkafo, torsion control, unilateral rotation straps, pelvic	\$116.84
L2080	hkafo, torsion control, unilateral torsion cable, hip joint,	\$312.50
L2090	hkafo, torsion control, unilateral torsion cable, ball bearing	\$380.99
L2102	afo, fracture orthosis, tibial fracture cast orthosis, plaster	\$521.09
L2104	afo, fracture orthosis, tibial fracture cast orthosis,	\$619.81
L2106	afo, fracture orthosis, tibial fracture cast orthosis,	\$747.33
L2108	afo, fracture orthosis, tibial fracture cast orthosis, custom	\$1,170.03
L2112	afo, fracture orthosis, tibial fracture orthosis, soft,	\$304.03
L2114	afo, fracture orthosis, tibial fracture orthosis, semi-rigid,	\$440.38
L2116	afo, fracture orthosis, tibial fracture orthosis, rigid,	\$537.16
L2122	kafo, fracture orthosis, femoral fracture cast orthosis,	\$891.10
L2124	kafo, fracture orthosis, femoral fracture cast orthosis,	\$992.94
L2126	kafo, fracture orthosis, femoral fracture cast orthosis,	\$1,356.79
L2128	kafo, fracture orthosis, femoral fracture cast orthosis, custom	\$1,498.50
L2132	kafo, fracture orthosis, femoral fracture cast orthosis, soft,	\$525.66
L2134	kafo, fracture orthosis, femoral fracture cast orthosis, semi-	\$803.12
L2136	kafo, fracture orthosis, femoral fracture cast orthosis, rigid	\$878.87
L2180	addition to lower extremity fracture orthosis, plastic shoe	\$101.75
L2182	addition to lower extremity fracture orthosis, drop lock knee	\$79.63
L2184	addition to lower extremity fracture orthosis, limited motion	\$107.63
L2186	add. To lower extremity fracture orthosis, adjustable motion	\$130.80
L2188	addition to lower extremity fracture orthosis, quadrilateral	\$260.22
L2190	addition to lower extremity fracture orthosis, waist belt	\$59.45
L2192	addition to lower extremity fracture orthosis, hip joint,	\$309.80
L2200	addition to lower extremity, limited ankle motion, each joint.....	\$41.30
L2210	addition to lower extremity, dorsiflexion assist (plantar	\$58.40
L2220	add. To lower extremity, dorsiflexion and plantar flexion	\$71.16
L2230	addition to lower extremity, split flat caliper stirrups and	\$66.67
L2240	addition to lower extremity, round caliper and plate attachment	\$72.66
L2250	add. To lower extremity, foot plate, molded to patient model,	\$308.74
L2260	addition to lower extremity, reinforced solid stirrup (scott-.....	\$174.17
L2265	addition to lower extremity, long tongue stirrup	\$102.31
L2270	addition to lower extremity, varus/valgus correction ("t")	\$46.67
L2275	add. To lower extremity, varus/valgus correction, plastic	\$103.91
L2280	addition to lower extremity, molded inner boot	\$393.43
L2300	addition to lower extremity, abduction bar (bilateral hip	\$233.93
L2310	addition to lower extremity, abduction bar, straight.....	\$106.88
L2320	addition to lower extremity, nonmolded lacer.....	\$178.76
L2330	addition to lower extremity, lacer molded to patient model	\$341.16
L2335	addition to lower extremity, anterior swing band.....	\$197.38
L2340	addition to lower extremity, pre-tibial shell, molded to	\$388.32
L2350	add. To lower extremity, prosthetic type, (bk) socket, molded	\$774.19
L2360	addition to lower extremity, extended steel shank	\$44.96
L2370	addition to lower extremity, patten bottom	\$223.04
L2375	addition to lower extremity, torsion control, ankle joint and	\$99.17
L2380	addition to lower extremity, torsion control, straight knee	\$106.97
L2385	addition to lower extremity, straight knee joint, heavy duty,	\$116.38
L2390	addition to lower extremity, offset knee joint, each joint.....	\$95.11
L2395	addition to lower extremity, offset knee joint, heavy duty,	\$101.95

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES)	MAP
A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107		
L2397	addition to lower extremity orthosis, suspension sleeve	\$87.81
L2405	addition to knee joint, drop lock, each joint	\$44.22
L2415	addition to knee joint, cam lock (swiss, french, bail types),	\$159.56
L2425	addition to knee joint, disc or dial lock for adjustable knee	\$158.17
L2435	addition to knee joint, polycentric joint, each joint	\$143.80
L2492	addition to knee joint, lift loop for drop lock ring	\$88.60
L2500	add. To lower extremity, thigh/weight bearing, gluteal/ischial	\$274.10
L2510	addition to lower extremity, thigh/weight bearing, quadri-	\$631.12
L2520	add. To lower extremity, thigh/weight bearing, quadri-lateral	\$374.57
L2525	addition to lower extremity, thigh/weight bearing, ischial	\$873.78
L2526	addition to lower extremity, thigh/weight bearing, ischial	\$595.12
L2530	addition to lower extremity, thigh/weight bearing, lacer,	\$204.14
L2540	addition to lower extremity, thigh/weight bearing, lacer,	\$367.33
L2550	addition to lower extremity, thigh/weight bearing, high roll	\$249.53
L2570	addition to lower extremity, pelvic control, hip joint, clevis	\$413.84
L2580	addition to lower extremity, pelvic control, pelvic sling	\$403.24
L2600	addition to lower extremity, pelvic control, hip joint, clevis	\$178.44
L2610	addition to lower extremity, pelvic control, hip joint, clevis,	\$211.00
L2620	addition to lower extremity, pelvic control, hip joint, heavy-	\$232.31
L2622	addition to lower extremity, pelvic control, hip joint,	\$266.44
L2624	addition to lower extremity, pelvic control, hip joint,	\$287.71
L2627	addition to lower extremity, pelvic control, plastic, molded to	\$1,489.46
L2628	addition to lower extremity, pelvic control, metal frame,	\$1,455.67
L2630	addition to lower extremity, pelvic control, band and belt,	\$215.15
L2640	addition to lower extremity, pelvic control, band and belt,	\$291.98
L2650	addition to lower extremity, pelvic and thoracic control,	\$104.27
L2660	addition to lower extremity, thoracic control, thoracic band	\$161.94
L2670	addition to lower extremity, thoracic control, paraspinal	\$148.21
L2680	addition to lower extremity, thoracic control, lateral support	\$135.96
L2750	addition to lower extremity orthosis, plating chrome or nickel,	\$72.62
L2760	addition to lower extremity orthosis, extension, per extension,	\$52.79
L2770	addition to lower extremity orthosis, any material, per bar or	\$53.64
L2780	addition to lower extremity orthosis, non-corrosive finish, per	\$58.80
L2785	addition to lower extremity orthosis, drop lock retainer, each	\$27.54
L2795	addition to lower extremity orthosis, knee control, full	\$57.13
L2800	addition to lower extremity orthosis, knee control, kneecap,	\$92.00
L2810	addition to lower extremity orthosis, knee control, condylar	\$67.86
L2820	addition to lower extremity orthosis, soft interface for molded	\$75.46
L2830	addition to lower extremity orthosis, soft interface for molded	\$81.62
L2840	addition to lower extremity orthosis, tibial length sock,	\$30.06
L2850	addition to lower extremity orthosis, femoral length sock,	\$42.15
L2999	unlisted procedures for lower extremity orthoses	BR
L3000	foot insert, removable, molded to patient model, "ucb" type,	\$170.00
L3001	foot insert, removable, molded to patient model, spenco, each	br
L3002	foot insert, removable, molded to patient model, plastazote or	\$99.00
L3003	foot insert, removable, molded to patient model, silicone gel,	\$99.00
L3010	foot insert, removable, molded to patient model, longitudinal	\$135.00
L3020	foot insert, removable, molded to patient model,	\$99.00
L3030	foot insert, removable, formed to patient foot, each	BR
L3040	foot, arch support, removable, premolded, longitudinal, each	BR
L3050	foot, arch support, removable, premolded, metatarsal, each	BR
L3060	foot, arch support, removable, premolded,	BR
L3070	foot, arch support, nonremovable, attached to shoe,	BR
L3080	foot, arch support, nonremovable, attached to shoe, metatarsal,	BR

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES)	MAP
A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107		
L3090	foot, arch support, nonremovable, attached to shoe, longitudin.....	BR
L3100	hallus-valgus night dynamic splint.....	BR
L3150	foot, abduction rotation bar, without shoes.....	BR
L3215	orthopedic footwear, woman's shoes, oxford.....	\$94.18
L3216	orthopedic footwear, woman's shoes, depth inlay.....	\$108.00
L3217	orthopedic footwear, woman's shoes, hightop, depth inlay.....	\$127.00
L3218	orthopedic footwear, woman's surgical boot, each.....	\$87.00
L3219	orthopedic footwear, man's shoes, oxford.....	\$102.87
L3221	orthopedic footwear, man's shoes, depth inlay.....	\$120.00
L3222	orthopedic footwear, man's shoes, hightop, depth inlay.....	\$150.00
L3223	orthopedic footwear, man's surgical boot, each.....	\$91.00
L3230	orthopedic footwear, custom shoes, depth inlay.....	\$425.00
L3250	orthopedic footwear, custom molded shoe, removable inner mold,	\$381.00
L3251	foot, shoe molded to patient model, silicone shoe, each.....	\$450.00
L3252	foot, shoe molded to patient model, plastazote (or similar),	\$300.00
L3253	foot, molded shoe plastazote (or similar), custom fitted, each.....	\$90.00
L3254	nonstandard size or width.....	\$38.00
L3257	orthopedic footwear, additional charge for split size.....	\$180.00
L3260	ambulatory surgical boot, each.....	\$60.00
L3265	plastazote sandal, each.....	\$35.00
L3300	lift, elevation, heel, tapered to metatarsals, per inch.....	\$42.00
L3310	lift, elevation, heel and sole, neoprene, per inch.....	\$40.00
L3320	lift, elevation, heel and sole, cork, per inch.....	BR
L3330	lift, elevation, metal extension (skate).....	\$275.00
L3332	lift, elevation, inside shoe, tapered, up to one-half inch.....	\$18.00
L3334	lift, elevation, heel, per inch.....	\$25.00
L3340	heel wedge, sach.....	\$70.00
L3350	heel wedge.....	\$13.00
L3360	sole wedge, outside sole.....	\$15.00
L3370	sole wedge, between sole.....	\$22.00
L3380	clubfoot wedge.....	\$32.00
L3390	outflare wedge.....	\$15.00
L3400	metatarsal bar wedge, rocker.....	\$56.00
L3410	metatarsal bar wedge, between sole.....	\$64.00
L3420	full sole and heel wedge, between sole.....	\$32.00
L3430	heel, counter, plastic reinforced.....	\$44.00
L3440	heel, counter, leather reinforced.....	\$35.00
L3500	miscellaneous shoe addition, insole, leather.....	BR
L3510	miscellaneous shoe addition, insole, rubber.....	BR
L3520	miscellaneous shoe addition, insole, felt covered with leather.....	BR
L3530	miscellaneous shoe addition, sole, half.....	BR
L3540	miscellaneous shoe addition, sole, full.....	BR
L3550	miscellaneous shoe addition, toe tap, standard.....	BR
L3560	miscellaneous shoe addition, toe tap, horseshoe.....	BR
L3570	miscellaneous shoe addition, special extension to instep.....	BR
L3580	miscellaneous shoe addition, convert instep to velcro closure.....	BR
L3590	miscellaneous shoe addition, convert firm shoe counter to soft.....	BR
L3595	miscellaneous shoe addition, march bar.....	BR
L3650	so, figure of eight design abduction restrainer.....	\$37.82
L3660	so, figure of eight design abduction restrainer, canvas and.....	\$65.54
L3670	so, acromio/clavicular (canvas and webbing type).....	\$72.11
L3700	eo, elastic with stays.....	\$44.51
L3710	eo, elastic with metal joints.....	\$78.83
L3720	eo, double upright with forearm/arm cuffs, free motion.....	\$556.10

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES)	MAP
A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107		
L3730	eo, double upright with forearm/arm cuffs, extension/flexion	\$766.44
L3740	eo, double upright with forearm/arm cuffs, adjustable position	\$908.66
L3800	whfo, short opponens, no attachments	\$140.00
L3805	whfo, long opponens, no attachment.....	\$256.00
L3810	whfo, addition to short and long opponens, thumb abduction	\$55.09
L3815	whfo, addition to short and long opponens, second m.p.	\$51.16
L3820	whfo, addition to short and long opponens, i.p. extension	\$87.86
L3825	whfo, addition to short and long opponens, m.p. extension stop	\$55.14
L3830	whfo, addition to short and long opponens, m.p. extension	\$71.98
L3835	whfo, addition to short and long opponens, m.p. spring	\$78.02
L3840	whfo, addition to short and long opponens, spring swivel thumb	\$53.45
L3845	whfo, addition to short and long opponens, thumb i.p. extension	\$69.02
L3850	whfo, addition to short and long opponens, action wrist, with	\$98.59
L3855	whfo, addition to short and long opponens, adjustable m.p.	\$99.38
L3860	whfo, add. To short and long opponens, adjustable m.p. flexion	\$136.03
L3900	whfo, dynamic flexor hinge, reciprocal wrist extension/flexion,	\$1,396.48
L3901	whfo, dynamic flexor hinge, reciprocal wrist extension/flexion,	\$1,481.20
L3902	whfo, external powered, compressed gas	\$2,137.19
L3904	whfo, external powered, electric	\$2,354.94
L3906	whfo, wrist gauntlet, custom fabricated	\$384.00
L3907	whfo, wrist gauntlet with thumb spica, custom fabricated	\$406.00
L3908	whfo, wrist extension control cock-up, prefabricated	\$38.21
L3910	whfo, swanson design	\$253.61
L3912	whfo, flexion glove with elastic finger control	\$69.00
L3914	whfo, wrist extension cock-up, prefabricated.....	\$62.00
L3916	whfo, wrist extension cock-up, with outrigger, prefabricated.....	\$109.00
L3918	whfo, knuckle bender, prefabricated	\$64.00
L3920	whfo, knuckle bender, with outrigger, prefabricated	\$90.00
L3922	whfo, knuckle bender, two segment to flex joints, prefabricated.....	\$75.02
L3924	whfo, oppenheimer, prefabricated.....	\$88.95
L3926	whfo, thomas suspension, prefabricated.....	\$71.96
L3928	whfo, finger extension, with clock spring, prefabricated	\$43.89
L3930	whfo, finger extension, with wrist support, prefabricated	\$50.94
L3932	whfo, safety pin, spring wire, prefabricated	\$38.12
L3934	whfo, safety pin, modified, prefabricated.....	\$40.91
L3936	whfo, palmer, prefabricated.....	\$75.73
L3938	whfo, dorsal wrist, prefabricated	\$74.25
L3940	whfo, dorsal wrist, with outrigger attachment, prefabricated.....	\$83.41
L3942	whfo, reverse knuckle bender, prefabricated.....	\$62.14
L3944	whfo, reverse knuckle bender, with outrigger, prefabricated	\$78.52
L3946	whfo, composite elastic, prefabricated	\$59.28
L3948	whfo, finger knuckle bender, prefabricated.....	\$46.85
L3950	whfo, combination oppenheimer, with knuckle bender and two	\$126.68
L3952	whfo, combination oppenheimer, with reverse knuckle and two	\$141.50
L3954	whfo, spreading hand, prefabricated	\$77.63
L3960	sewho, abduction positioning, airplane design, prefabricated.....	\$505.85
L3962	sewho, abduction positioning, erbs palsy design, prefabricated.....	\$457.52
L3963	sewho, molded shoulder, arm, forearm, and wrist with	\$1,063.83
L3964	seo, mobile arm support attached to wheelchair, balanced, adj.	\$501.52
L3965	seo, mobile arm support attached to wheelchair, balanced, adj.	\$772.40
L3966	seo, mobile arm support attached to wheelchair, balanced,	\$613.07
L3968	seo, mobile arm support attached to wheelchair, balanced and,.....	\$713.05
L3969	seo, mobile arm support, monosuspension arm and hand support,	\$563.81
L3970	seo, addition to mobile arm support, elevating proximal arm	\$193.93

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES)	MAP
A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107		
L3972	seo, addition to mobile arm support, offset or lateral rocker	\$178.22
L3974	seo, addition to mobile arm support, supinator	\$109.98
L3980	upper extremity fracture orthosis, humeral, prefabricated.....	\$197.13
L3982	upper extremity fracture orthosis, radius/ulnar, prefabricated.....	\$238.05
L3984	upper extremity fracture orthosis, wrist, prefabricated.....	\$219.47
L3985	upper extrem. fracture orthosis, forearm, hand with wrist hinge,	\$496.93
L3986	upper extremity fracture orthosis, combination of humeral,	\$476.56
L3995	addition to upper extremity orthosis, sock, fracture or equal,	\$20.85
L3999	upper limb orthosis, not otherwise specified.....	BR
L4000	replace girdle for milwaukee orthosis	\$1,107.83
L4010	replace trilateral socket brim	\$942.50
L4020	replace quadrilateral socket brim, molded to patient model.....	\$748.37
L4030	replace quadrilateral socket brim, custom fitted.....	\$438.67
L4040	replace molded thigh lacer.....	\$354.66
L4045	replace nonmolded thigh lacer.....	\$285.01
L4050	replace molded calf lacer.....	\$358.70
L4055	replace nonmolded calf lacer.....	\$232.27
L4060	replace high roll cuff	\$276.12
L4070	replace proximal and distal upright for kafo	\$244.52
L4080	replace metal bands kafo, proximal thigh.....	\$87.00
L4090	replace metal bands kafofo, calf or distal thigh.....	\$78.46
L4100	replace leather cuff kafo, proximal thigh	\$90.62
L4110	replace leather cuff kafofo, calf or distal thigh.....	\$73.68
L4130	replace pretibial shell.....	\$431.00
L4210	repair of orthotic device, repair or replace minor parts	BR
L4350	pneumatic ankle control splint (e.g., aircast), prefabricated.....	\$58.25
L4360	pneumatic walking splint (e.g., aircast), prefabricated.....	\$180.43
L4370	pneumatic full leg splint (e.g., aircast), prefabricated	\$123.02
L4380	pneumatic knee splint (e.g., aircast), prefabricated	\$69.99
L5000	partial foot, shoe insert with longitudinal arch, toe filler	\$400.00
L5010	partial foot, molded socket, ankle height, with toe filler	\$1,217.00
L5020	partial foot, molded socket, tibial tubercle height, with toe	\$2,226.00
L5050	ankle, symes, molded socket, sach foot.....	\$2,231.00
L5060	ankle, symes, metal frame, molded leather socket, articulated	\$2,691.00
L5100	below knee, molded socket, shin, sach foot	\$2,499.00
L5105	below knee, plastic socket, joints and thigh lacer, sach foot.....	\$3,215.69
L5150	knee disarticulation (or through knee), molded socket, external	\$3,599.00
L5160	knee disarticulation, (or through knee), molded socket, bent.....	\$3,869.00
L5200	above knee, molded socket, single axis constant friction knee,	\$3,081.00
L5210	above knee, short prosthesis, no knee joint ("stubbies"), with,	\$2,332.00
L5220	above knee, short prosthesis, no knee joint ("stubbies"),	\$2,592.00
L5230	above knee, for proximal femoral focal deficiency, constant.....	\$4,198.00
L5250	hip dis-articulation, canadian type; molded socket, hip joint,	\$4,802.00
L5270	hip dis-articulation, tilt table type, molded socket, locking	\$4,760.75
L5280	hemipelvectomy, canadian type; molded socket, hip joint, single	\$4,713.13
L5301	below knee, molded socket, shin, sach foot, endoskeletal system	\$2,612.75
L5311	knee disarticulation, molded socket, enternal knee joints, shin.....	\$3,859.00
L5321	above knee, molded socket, open end, sach foot, endoskeletal,.....	\$3,815.00
L5331	hip disarticulation, canadian type, molded socket, endoskeletal	\$5,450.14
L5341	hemipelvectomy, canadian type, molded socket, endoskeletal, hip	\$5,823.31
L5400	immediate post-surgical or early fitting, application of	\$1,261.00
L5410	immediate post-surgical or early fitting, application of	\$333.00
L5420	immediate post-surgical or early fitting, application of	\$1,547.71
L5430	immediate post-surgical or early fitting, application of	\$420.12

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES)	MAP
A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107		
L5450	immediate post-surgical or early fitting, application of non-	\$363.27
L5460	immediate post-surgical or early fitting, application of non-	\$476.46
L5500	initial below knee "ptb" type socket, "usmc" or equal pylon, no	\$1,262.00
L5505	initial, above knee-knee disarticulation, ischial level	\$1,685.00
L5510	preparatory, below knee "ptb" type socket, sach foot, plaster	\$1,535.00
L5520	preparatory, below knee "ptb" type socket, sach foot,	\$1,347.00
L5530	preparatory, below knee "ptb" type socket, no cover, sach foot,	\$1,752.00
L5535	preparatory, below knee "ptb" type socket, no cover, sach foot,	\$1,569.73
L5540	preparatory, below knee "ptb" type socket, no cover, sach foot,	\$1,765.00
L5560	preparatory, above knee-knee disarticulation, ischial	\$1,829.00
L5570	preparatory, above knee-knee disarticulation, ischial	\$1,840.00
L5580	preparatory, above knee-knee disarticulation, ischial	\$2,352.00
L5585	preparatory, above knee-knee disarticulation, ischial	\$2,696.00
L5590	preparatory, above knee-knee disarticulation, ischial	\$2,225.22
L5595	preparatory, hip disarticulation-hemipelvectomy, pylo	\$3,727.16
L5600	preparatory, hip disarticulation-hemipelvectomy, pylon,	\$4,115.89
L5610	addition to lower extremity, endoskeletal above	\$1,916.47
L5611	addition to lower extremity, endoskeletal system above	\$1,491.40
L5613	addition to lower extremity, endoskeletal above, 4ar lin	\$2,268.50
L5614	addition to lower extremity, above knee-knee disarticula	\$3,508.49
L5616	addition to lower extremity, above knee, universal mult	\$1,257.18
L5618	addition to lower extremity, test socket, symes	\$654.32
L5620	addition to lower extremity, test socket, below knee	\$533.41
L5622	addition to lower extremity, test socket, knee disarticulation	\$729.81
L5624	addition to lower extremity, test socket, above knee	\$635.07
L5626	addition to lower extremity, test socket, hip disarticulation	\$777.71
L5628	addition to lower extremity, test socket, hemipelvectomy	\$775.86
L5629	addition to lower extremity, below knee, acrylic socket	\$220.64
L5630	addition to lower extremity, symes type, expandable wall socket	\$415.43
L5631	addition to lower extremity, above knee or	\$305.04
L5632	addition to lower extremity, symes type, "ptb" brim d	\$205.52
L5634	addition to lower extremity, symes type, posterior opening	\$281.57
L5636	addition to lower extremity, symes type, medial opening socket	\$235.86
L5637	addition to lower extremity, below knee, total contact	\$294.15
L5638	addition to lower extremity, below knee, leather socket	\$450.48
L5639	addition to lower extremity, below knee, wood socket	\$1,037.83
L5640	addition to lower extremity, knee disarticulation, leather	\$591.89
L5642	addition to lower extremity, above knee, leather socket	\$573.50
L5643	addition to lower extremity, hip disarticulation, flexible	\$1,440.73
L5644	addition to lower extremity, above knee, wood socket	\$546.73
L5645	addition to lower extremity, below knee, flexible inner socket,	\$748.26
L5646	addition to lower extremity, below knee, air cushion socket	\$507.18
L5647	addition to lower extremity, below knee, suction socket	\$736.32
L5648	addition to lower extremity, above knee, air cushion socket	\$609.43
L5649	addition to lower extremity, ischial containment/narrow m-l	\$1,882.67
L5650	addition to lower extremity, total contact, above knee or knee	\$451.88
L5651	addition to lower extremity, above knee, flexible inner socket,	\$1,111.63
L5652	addition to lower extremity, suction suspension, above knee or	\$606.28
L5653	addition to lower extremity, knee disarticulation, expandable	\$661.74
L5654	addition to lower extremity, socket insert, symes (kemblo,	\$426.49
L5655	addition to lower extremity, socket insert, below knee (kemblo,	\$348.15
L5656	addition to lower extremity, socket insert, knee	\$343.38
L5658	addition to lower extremity, socket insert, above knee (kemblo,	\$336.56
L5660	addition to lower extremity, socket inset, symes, silicone gel	\$533.65

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES)	MAP
A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107		
L5661	addition to lower extremity, socket insert, multidurometer,	\$563.29
L5662	addition to lower extremity, socket insert, below knee,	\$489.35
L5663	addition to lower extremity, socket insert, knee	\$637.86
L5664	addition to lower extremity, socket insert, above knee,	\$614.54
L5665	addition to lower extremity, socket insert, multidurometer,	\$473.96
L5666	addition to lower extremity, below knee, cuff suspension	\$64.80
L5668	addition to lower extremity, below knee, molded distal cushion	\$93.48
L5670	addition to lower extremity, below knee, molded supracondylar	\$300.76
L5672	addition to lower extremity, below knee, removable medial brim	\$276.02
L5674	addition to lower extremity, below knee, latex sleeve	\$48.81
L5675	addition to lower extremity, below knee, latex sleeve	\$66.16
L5676	addition to lower extremity, below knee, knee joints, single	\$335.44
L5677	addition to lower extremity, below knee, knee joints,	\$456.40
L5678	addition to lower extremity, below knee, joint covers, pair	\$30.33
L5680	addition to lower extremity, below knee, thigh lacer, nonmolded	\$281.74
L5682	addition to lower extremity, below knee, thigh lacer,	\$578.90
L5684	addition to lower extremity, below knee, fork strap	\$44.54
L5686	addition to lower extremity, below knee, back check (extension	\$47.29
L5688	addition to lower extremity, below knee, waist belt, webbing	\$56.53
L5690	addition to lower extremity, below knee, waist belt, padded and	\$90.58
L5692	addition to lower extremity, above knee, pelvic control belt,	\$123.00
L5694	addition to lower extremity, above knee, pelvic control belt,	\$167.93
L5695	addition to lower extremity, above knee, pelvic control, sleeve	\$150.96
L5696	addition to lower extremity, above knee or knee	\$171.28
L5697	addition to lower extremity, above knee or knee	\$74.32
L5698	addition to lower extremity, above knee or knee	\$96.56
L5699	all lower extremity prostheses, shoulder harness	\$142.40
L5700	replacement, socket, below knee, molded to patient model	\$2,534.95
L5701	replacement, socket, above knee/knee disarticulation including	\$3,147.36
L5702	replacement, socket, hip disarticulation, including hip joint,	\$4,021.66
L5704	replacement, custom shaped protective cover, below knee	\$436.72
L5705	replacement, custom shaped protective cover, above knee	\$800.64
L5706	replacement, custom shaped protective cover, knee	\$780.94
L5707	replacement, custom shaped protective cover, hip	\$1,049.19
L5710	addition, exoskeletal knee-shin system, single axis, manual	\$332.93
L5711	addition, exoskeletal knee-shin system, single axis, manual lo	\$483.34
L5712	addition, exoskeletal knee-shin system, single axis, friction	\$398.87
L5714	addition, exoskeletal knee-shin system, single axis, variable	\$387.18
L5716	addition, exoskeletal knee-shin system, polycentric mechanical	\$674.65
L5718	addition, exoskeletal knee-shin system, polycentric, friction c	\$843.24
L5722	addition, exoskeletal knee-shin system, single axis, pneumatic	\$835.75
L5724	addition, exoskeletal knee-shin system, single axis, fluid	\$1,397.20
L5726	addition, exoskeletal knee-shin system, single axis, external	\$1,610.24
L5728	addition, exoskeletal knee-shin system, single axis, fluid	\$1,851.35
L5780	addition, exoskeletal knee-shin system, single axis,	\$1,059.79
L5785	addition, exoskeletal system, below knee, ultra-light material	\$480.92
L5790	addition, exoskeletal system, above knee, ultra-light material	\$665.57
L5795	addition, exoskeletal system, hip disarticulation, ultra-light	\$993.86
L5810	addition, endoskeletal knee-shin system, single axis, manual	\$450.67
L5811	addition, endoskeletal knee-shin system, single axis, manual	\$675.10
L5812	addition, endoskeletal knee-shin system, single axis friction	\$495.00
L5816	addition, endoskeletal knee-shin system, polycentric mechanical	\$710.00
L5818	addition, endoskeletal knee-shin system, polycentric, friction	\$888.94
L5822	addition, endoskeletal knee-shin system, single axis, pneumatic	\$1,576.30

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES)	MAP
A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107		
L5824	addition, endoskeletal knee-shin system, single axis, fluid.....	\$1,400.00
L5828	addition, endoskeletal knee-shin system, single axis, fluid.....	\$2,263.39
L5830	addition, endoskeletal knee-shin system, single axis,	\$1,756.46
L5840	addition, endoskeletal knee-shin system, single axis,	\$1,980.00
L5850	addition, endoskeletal system, above knee or hip	\$118.42
L5855	addition, endoskeletal system, hip disarticulation, mechanical	\$285.88
L5910	addition, endoskeletal system, below knee, alignable system	\$335.26
L5920	addition, endoskeletal system, above knee or hip	\$491.14
L5925	addition, endoskeletal system, above knee, knee disarticulation.....	\$280.00
L5940	addition, endoskeletal system, below knee, ultra-light material.....	\$464.30
L5950	addition, endoskeletal system, above knee, ultra-light material.....	\$720.17
L5960	addition, endoskeletal system, hip disarticulation, ultra-light	\$892.37
L5962	addition, endoskeletal system, below knee, flexible protective.....	\$490.00
L5964	addition, endoskeletal system, above knee, flexible protective.....	\$798.56
L5966	addition endoskeletal system, hip disarticulation, flexible	\$1,035.31
L5970	all lower extremity prostheses, foot, external keel, each foot.....	\$187.99
L5972	all lower extremity prostheses, flexible keel foot (safe, sten,	\$326.23
L5974	all lower extremity prostheses, foot, single axis ankle/foot.....	\$215.70
L5976	all lower extremity prostheses, energy storing foot (seattl	\$451.39
L5978	all lower extremity prostheses, foot, multiaxial ankle/foot	\$270.13
L5979	all lower extremity prostheses, multiaxial ankle/foot, dynami.....	\$2,090.00
L5980	all lower extremity prostheses, flex-foot system	\$2,917.79
L5981	all lower extremity prostheses, flex-walk system or equal.....	\$2,382.65
L5982	all exoskeletal lower extremity prostheses, axial rotation unit.....	\$535.13
L5984	all endoskeletal lower extremity prostheses, axial rotatio	\$527.33
L5986	all lower extremity prostheses, multiaxial rotation unit ("mcp	\$586.57
L5999	lower extremity prosthesis, not otherwise classified	BR
L6000	partial hand, robinids, thumb remaining (or equal).....	\$1,229.90
L6010	partial hand, robinids, little and/or ring finger remaining	\$1,368.70
L6020	partial hand, robon aids, no finger remaining (or equal).....	\$1,276.09
L6050	wrist disarticulation, molded socket, flexible elbow hinges.....	\$2,263.00
L6055	wrist disarticulation, molded socket with expandable interface,	\$2,450.75
L6100	below elbow, molded socket, flexible elbow hinge, triceps pad	\$2,229.00
L6110	below elbow, molded socket (muenster or northwestern suspension	\$2,284.04
L6120	below elbow, molded double wall split socket, step-up hinges,	\$2,202.07
L6130	below elbow, molded double wall split socket, stump activated	\$2,396.27
L6200	elbow disarticulation, molded socket, outside locking hinge,	\$2,982.00
L6205	elbow disarticulation, molded socket with expandable interface,	\$3,370.85
L6250	above elbow, molded double wall socket, internal locking elbow,	\$3,267.79
L6300	shoulder disarticulation, molded socket, shoulder bulkhead,	\$3,448.64
L6310	shoulder disarticulation, passive restoration (complete	\$2,809.00
L6320	shoulder disarticulation, passive restoration (shoulder cap	\$1,581.89
L6350	interscapular thoracic, molded socket, shoulder bulkhead,	\$3,625.73
L6360	interscapular thoracic, passive restoration (complete	\$2,948.39
L6370	interscapular thoracic, passive restoration (shoulder cap only).....	\$1,880.09
L6380	immediate post-surgical or early fitting, application of	\$1,130.00
L6382	immediate post-surgical or early fitting, application of	\$1,520.00
L6384	immediate post-surgical or early fitting, application of	\$1,764.86
L6386	immediate post-surgical or early fitting, each additional cast	\$371.72
L6388	immediate post-surgical or early fitting, application of rigid	\$406.94
L6400	below elbow, molded socket, endoskeletal system, including soft	\$2,147.89
L6450	elbow disarticulation, molded socket, endoskeletal system,	\$2,853.88
L6500	above elbow, molded socket, endoskeletal system, including soft	\$2,856.22
L6550	shoulder disarticulation, molded socket, endoskeletal system,	\$3,529.76

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES)	MAP
A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107		
L6570	interscapular thoracic, molded socket, endoskeletal system,	\$4,051.49
L6580	preparatory, wrist disarticulation or below elbow, single wall	\$1,446.95
L6582	preparatory, wrist disarticulation or below elbow, single wall	\$1,273.99
L6584	preparatory, elbow disarticulation or above elbow, single wa	\$1,894.64
L6586	preparatory, elbow disarticulation or above elbow, single wa	\$1,734.41
L6588	preparatory, shoulder disarticulation or interscapul	\$2,616.40
L6590	preparatory, shoulder disarticulation or interscapul	\$2,435.32
L6600	upper extremity additions, polycentric hinge, pair	\$173.63
L6605	upper extremity additions, single pivot hinge, pair	\$171.44
L6610	upper extremity additions, flexible metal hinge, pair	\$154.12
L6615	upper extremity addition, disconnect locking wrist unit	\$160.80
L6616	upper extremity addition, additional disconnect insert f	\$60.04
L6620	upper extremity addition, flexion-friction wrist unit	\$280.66
L6623	upper extremity addition, spring assisted rotational wrist un	\$593.77
L6625	upper extremity addition, rotation wrist unit with cable lock	\$492.31
L6628	upper extremity addition, quick disconnect hook adapter, or equal	\$443.44
L6629	upper extremity addition, quick disconnect lamination coll	\$135.43
L6630	upper extremity addition, stainless steel, any wrist	\$529.70
L6632	upper extremity addition, latex suspension sleeve, each	\$60.14
L6635	upper extremity addition, lift assist for elbow	\$185.00
L6637	upper extremity addition, nudge control elbow lock	\$339.89
L6640	upper extremity addition, shoulder abduction joint, pair	\$259.30
L6641	upper extremity addition, excursion amplifier pulley type	\$148.50
L6642	upper extremity addition, excursion amplifier level type	\$201.28
L6645	upper extremity addition, shoulder flexion abduction join	\$295.49
L6650	upper extremity addition, shoulder universal joint, each	\$313.32
L6655	upper extremity addition, standard control cable, extra	\$69.53
L6660	upper extremity addition, heavy duty control cable	\$84.96
L6665	upper extremity addition, teflon, or equal cable lining	\$42.64
L6670	upper extremity addition, hook to hand, cable adapter	\$44.39
L6672	upper extremity addition, harness, chest or shoulder, saddle	\$156.07
L6675	upper extremity addition, harness, figure of eight type, for	\$111.16
L6676	upper extremity addition, harness, figure of ei	\$112.26
L6680	upper extremity addition, test socket, wrist disar	\$396.63
L6682	upper extremity addition, test socket, elbow disar	\$492.52
L6684	upper extremity addition, test socket, shoulder di	\$575.62
L6686	upper extremity addition, suction socket	\$546.47
L6687	upper extremity addition, frame type socket, b	\$485.00
L6688	upper extremity addition, frame type socket, a	\$490.36
L6689	upper extremity addition, frame type soc	\$623.71
L6690	upper extremity addition, frame type socket,	\$636.49
L6691	upper extremity addition, removable insert, each	\$375.00
L6692	upper extremity addition, silicone gel insert or equal, each	\$517.66
L6700	terminal device, hook dorrance, or equal, model #3	\$480.17
L6705	terminal device, hook dorrance, or equal, model #5	\$281.90
L6710	terminal device, hook, dorrance, or equal, model #5x	\$456.45
L6715	terminal device, hook, dorrance, or equal, model #5xa	\$435.00
L6720	terminal device, hook, dorrance, or equal, model #6	\$789.68
L6725	terminal device, hook, dorrance, or equal, model #7	\$465.24
L6730	terminal device, hook, dorrance, or equal, model #7lo	\$591.50
L6735	terminal device, hook, dorrance, or equal, model #8	\$275.82
L6740	terminal device, hook, dorrance, or equal, model #8x	\$359.60
L6745	terminal device, hook, dorrance, or equal, model #88x	\$329.03
L6750	terminal device, hook, dorrance, or equal, model #10p	\$325.22

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES)	MAP
A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107		
L6755	terminal device, hook, dorrance, or equal, model #10x	\$324.30
L6765	terminal device, hook, dorrance, or equal, model #12p	\$338.82
L6770	terminal device, hook, dorrance, or equal, model #99x	\$326.63
L6775	terminal device, hook, dorrance, or equal, model #555	\$387.01
L6780	terminal device, hook, dorrance, or equal, model #ss555	\$413.69
L6790	terminal device, hook, accu hook or equal	\$418.27
L6795	terminal device, hook, 2 load or equal	\$1,145.60
L6800	terminal device, hook, aprl vc or equal	\$937.88
L6805	terminal device, modifier wrist flexion unit	\$314.94
L6806	terminal device, hook, trs grip, vc	\$1,219.79
L6809	terminal device, hook, trs super sport, passive	\$343.46
L6810	terminal device, pincher tool, otto bock or equal	\$172.66
L6825	terminal device, hand, dorrance, vo.....	\$955.02
L6830	terminal device, hand, aprl, vc.....	\$1,253.51
L6835	terminal device, hand, sierra, vo.....	\$1,091.93
L6840	terminal device, hand, becker imperial.....	\$758.59
L6845	terminal device, hand, becker lock grip.....	\$704.22
L6850	terminal device, hand, becker pylite.....	\$637.78
L6855	terminal device, hand, robinids, vo	\$811.19
L6860	terminal device, hand, robinids, vo soft	\$615.22
L6865	terminal device, hand, passive hand	\$301.42
L6875	terminal device, hand, bock vc.....	\$719.47
L6880	terminal device, hand, bock vo.....	\$466.76
L6890	terminal device, glove for above hands, production glove.....	\$190.00
L6895	terminal device, glove for above hands, custom glove.....	\$732.76
L6900	hand restoration (casts, shading and measuremen	\$1,989.50
L6905	hand restoration (casts, shading and measuremen	\$1,990.23
L6910	hand restoration (casts, shading and measuremen	\$2,001.88
L6915	hand restoration (shading and measuremen	\$774.57
L6920	wrist disarticulation, external power, self-su.....	\$6,434.34
L6925	wrist disarticulation, external power, self-su.....	\$6,874.02
L6930	below elbow, external power, self-suspended inner socket,	\$6,197.18
L6935	below elbow, external power, self-suspended inner socket,	\$6,841.72
L6940	elbow disarticulation, external power, molded inner socket,	\$8,002.61
L6945	elbow disarticulation, external power, molded inner socket,	\$8,927.91
L6950	above elbow, external power, molded inner socket, removable	\$7,987.74
L6955	above elbow, external power, molded inner socket, removable	\$9,263.27
L6960	shoulder disarticulation, external power, molded inner socket,	\$9,744.62
L6965	shoulder disarticulation, external power, molded inner	\$11,544.00
L6970	interscapular-thoracic, external power, molded inner	\$12,356.57
L6975	interscapular-thoracic, external power, molded inner	\$13,619.84
L7010	electronic hand, otto bock, steeper or equal, switch controlled.....	\$3,174.94
L7015	electronic hand, system teknik, variety village or equal, switc	\$5,611.94
L7020	electronic greifer, otto bock or equal, switch controlled	\$3,466.69
L7025	electronic hand, otto bock or equal, myoelectronically	\$3,428.95
L7030	electronic hand, system teknik, variety village or equal,	\$5,488.37
L7035	electronic greifer, otto bock or equal, myoelectronically	\$3,648.62
L7040	prehensile actuator, hosmer or equal, switch controlled	\$2,609.59
L7170	electronic elbow, boston or equal, switch controlled	\$5,427.59
L7180	electronic elbow, boston, utah or equal, myoelectro	\$29,891.81
L7260	electronic wrist rotator, otto bock or equal.....	\$1,821.71
L7261	electronic wrist rotator, for utah arm.....	\$3,610.95
L7266	servo control, steeper or equal.....	\$916.48
L7272	analogue control, unb or equal	\$1,812.94

Code	Abbreviated Orthotic and Prosthetic procedures (L-CODES)	MAP
A complete listing of procedures and codes is found in HCPCS as adopted by reference in R 418.10107		
L7274	proportional control, 12 volt, utah or equal.....	\$5,621.72
L7360	six volt battery, otto bock or equal, each.....	\$240.00
L7362	battery charger, six volt, otto bock or equal.....	\$242.00
L7364	twelve volt battery, utah or equal, each.....	\$392.77
L7366	battery charger, 12 volt, utah or equal.....	\$540.20
L7499	unlisted procedures for upper extremity prosthesis.....	BR
L7500	repair of prosthetic device, hourly rate.....	\$80.00
L7510	repair prosthetic device, repair or replace minor parts.....	BR
L8100	gradient compression stocking, below knee, medium weight, each.....	BR
L8110	gradient compression stocking, below knee, heavy weight, each.....	BR
L8120	gradient compression stocking, (linton or equal), each thigh.....	BR
L8130	gradient compression stocking, thigh length.....	BR
L8140	gradient compression stocking, thigh length.....	BR
L8150	gradient compression stocking, thigh length.....	BR
L8160	gradient compression stocking, full-length, each.....	BR
L8170	gradient compression stocking, full-length, chap style each.....	BR
L8180	gradient compression stocking,.....	BR
L8190	gradient compression stocking, waist length each.....	BR
L8200	gradient compression stocking, waist length, each.....	BR
L8210	gradient compression stocking, custom-made.....	BR
L8220	gradient compression, elastic stocking, lymphedema.....	BR
L8300	truss, single with standard pad.....	\$58.56
L8310	truss, double with standard pads.....	\$92.46
L8320	truss, addition to standard pad, water pad.....	\$37.11
L8330	truss, addition to standard pad, scrotal pad.....	\$34.27
L8400	prosthetic sheath, below knee, each.....	\$23.02
L8410	prosthetic sheath, above knee, each.....	\$19.18
L8415	prosthetic sheath, upper limb, each.....	\$19.84
L8420	prosthetic sock, multiple ply, below knee, each.....	\$18.01
L8430	prosthetic sock, multiple ply, above knee, each.....	\$20.50
L8435	prosthetic sock, multiple ply, upper limb, each.....	\$19.46
L8440	prosthetic shrinker, below knee, each.....	\$38.71
L8460	prosthetic shrinker, above knee, each.....	\$61.69
L8465	prosthetic shrinker, upper limb, each.....	\$45.16
L8470	stump sock, single ply, fitting, below knee, each.....	\$6.18
L8480	stump sock, single ply, fitting, above knee, each.....	\$8.52
L8485	stump sock, single ply, fitting, upper limb, each.....	\$10.17
L8490	addition to prosthetic sheath/sock, air seal suction retent.....	\$134.87
L8499	unlisted procedure for miscellaneous prosthetic services.....	BR
L8500	artificial larynx, any type.....	BR
L8501	tracheostomy speaking valve.....	BR
L8610	ocular.....	BR
L8699	prosthetic implant, not otherwise specified.....	BR

**OPINIONS OF THE
ATTORNEY GENERAL**

MCL 14.32 states in part:

“It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer”

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(j) Attorney general opinions. ”

OPINIONS OF THE ATTORNEY GENERAL

CRIMINAL LAW: Application of motorboat noise limits to
wind noise produced by airboat propeller

LAW ENFORCEMENT:

NATURAL RESOURCES,
DEPARTMENT OF:

The noise limit provisions in section 80156 of the Natural Resources and Environmental Protection Act do not apply to noise produced by an airplane propeller on an airboat.

Opinion No. 7124

February 20, 2003

Honorable Patricia Birkholz
State Senator
The State Capitol
Lansing, MI 48909

You have asked if the noise limit provisions in section 80156 of the Natural Resources and Environmental Protection Act apply to noise produced by an airplane propeller on an airboat. Information received with your request indicates that residents who live near the Kalamazoo River have complained about noise generated by airboats used on the river.

The Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, MCL 324.101 *et seq*, was enacted to consolidate and codify Michigan laws relating to the environment and natural resources. Subchapter 5 of the NREPA, MCL 324.80101 *et seq*, governs watercraft and marine safety. Section 80156, which establishes motorboat sound level standards, provides in relevant part as follows:

(1) Subject to subsection (2),¹ a person shall not operate a motorboat on the waters of this state unless the *motorboat is equipped and maintained with an effective*

¹ Subsection (2) authorizes the Department of Natural Resources to establish, by rule, a different motorboat sound level test and maximum sound levels. No such rule has been adopted.

muffler or underwater exhaust system that does not produce sound levels in excess of 90 dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005 or a sound level in excess of 75 dB(A) when subjected to a shoreline sound level measurement procedure as described by SAE J1970. The operator of a motorboat shall present the motorboat for a sound level test as prescribed by SAE J2005 upon the request of a peace officer. If a motorboat is equipped with more than 1 motor or engine, the test shall be performed with all motors or engines operating. To determine whether a person is violating this subsection, a peace officer may measure sound levels pursuant to procedures prescribed in SAE J1970, issued 1991-92.

* * *

(6) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days and a fine of not less than \$100.00 or more than \$500.00. Additionally, before putting the motorboat back in use, *a person who violates this section is required to install an effective muffler or underwater exhaust system that meets the requirements of this section on the motorboat in violation at his or her expense.* [Emphasis added.]

As appears from the quoted language in section 80156, the statute prohibits the operation of a motorboat engine that exceeds specified sound levels. Whether the maximum sound levels specified in section 80156 apply to other noises produced by a motorboat, namely wind noise from an operating airplane propeller, is a question of statutory interpretation.

Section 80103(f) of the NREPA defines the term "motorboat" as follows:

"Motorboat" means a vessel propelled wholly or in part by machinery.

An airboat is a flat-bottomed boat, powered by an airplane propeller projecting above the stern, and is used in shallow waters. *American Heritage College Dictionary*, Third Edition (1997). Information available on the Internet indicates that an airboat propeller is powered by an engine above the stern, much like a common fan. Since an airboat's engine and propeller constitute "machinery" that propels a vessel, an airboat clearly falls within the definition of motorboat as set forth in section 80103(f) of the NREPA.

Information supplied to my staff indicates that a principal sound emanating from an operating airboat is the noise produced by the movement of the airboat's airplane propeller, as distinct from its engine. Thus, while an airboat may be equipped with a muffler or underwater exhaust system that limits engine sound to decibel levels below the maximum levels established by subsection (1) of section 80156, it is possible that the noise produced by the movement of the airboat's airplane propeller could exceed those levels.

In order to ascertain the intent of the Legislature, the entire act should be read and meaning must be given, if possible, to every word of the statute. *Grand Rapids v Crocker*, 219 Mich 178, 182-183; 189 NW 221 (1922). Legislative intent is not to be determined from focusing on isolated words, but from the entire act. *Taylor v Auditor General*, 360 Mich 146, 151; 103 NW2d 769 (1960). Since section 80156 imposes criminal penalties for violations of the NREPA, it must be narrowly construed. *People v Ellis*, 204 Mich 157; 169 NW 930 (1918).

The first sentence of subsection (1) of section 80156 provides that:

[A] person shall not operate a motorboat on the waters of this state unless the motorboat *is equipped and maintained with an effective muffler or underwater exhaust system that* does not produce sound levels in excess of [the applicable decibel level under the specified sound test]. [Emphasis added.]

If the emphasized words were omitted from the statute, the specified maximum sound levels would clearly apply to a motorboat generally, rather than to a motorboat's engine. A cardinal rule of statutory interpretation requires that each word of a statute is presumed to be used for a purpose, and, as far as possible, effect must be given to every clause and sentence. *Robinson v Detroit*, 462 Mich 439, 459; 613 NW2d 307 (2000).

The language of subsection (1) of section 80156 emphasized above is also used in subsection (3), which provides that:

A person shall not manufacture, sell, or offer for sale a motorboat for use on the waters of this state unless that motorboat *is equipped and maintained with an effective muffler or underwater exhaust system that* complies with the applicable sound levels permitted under subsection (1) or (2). [Emphasis added.]

Further, subsection (6) requires a person in violation:

[T]o install an effective muffler or underwater exhaust system that meets the requirements of this section on the motorboat in violation at his or her expense. [Emphasis added.]

The Legislature has not defined "muffler" as that term is used in the NREPA. Where a word is not defined in a statute, it should be given its ordinary meaning and a court may consult dictionary definitions. *Markillie v Bd of County Road Comm'rs*, 210 Mich App 16, 21; 532 NW2d 878 (1995). Commonly understood, the term "muffler" means "[a]ny device that absorbs noise, especially that of internal-combustion *engine*." *American Heritage Dictionary* (1970). (Emphasis added.) In the Michigan Vehicle Code, the Legislature adopted a comparable definition of muffler as being a "device for abating the sound of escaping gases of an internal combustion *engine*." MCL 257.707a(e). (Emphasis added.) This definition clarifies the legislative intent to regulate motorboat engine noise.

Strengthening the conclusion that the Legislature intended to regulate only engine noise is section 80156(2)(c), where the Legislature has provided that the test of maximum decibel noise levels shall be performed with "all motors or engines operating." In addition, when section 80156 was added to the NREPA, it replaced section 113 of 1967 PA 303, the now-repealed Marine Safety Act. Section 113 addressed motorboat noise as follows:

Every motorboat being operated on the waters of this state and being propelled by a permanently or temporarily attached motor shall be provided and equipped with a stock factory muffler, underwater exhaust, or other modern device capable of adequately *muffling the sound of the exhaust of the engine* of such motorboat. [Emphasis added.]

Section 113 clearly addressed motorboat *engine* noise. Section 80156, read as a whole, likewise is intended to address engine noise. Although awkwardly worded to imply that engine mufflers or their underwater exhaust systems produce noise, when read as a whole, including the language that requires testing with all motors or engines operating, it is clear that the statute's noise limit applies to the motorboat's *engine*.

It must therefore be concluded that an airboat is a motorboat for the purposes of section 80156(1) of the NREPA and that the operator of an airboat may be cited for violating this statute if a law enforcement officer determines that the airboat's engine, as equipped with a muffler or underwater exhaust system, produces sound levels in excess of the specified levels. Noise produced from the movement of the airboat's airplane propeller may not, however, be used to establish a violation of section 80156(1). If there is a public noise problem associated with the operation of airboat propellers, the Legislature is, of course, free to amend the NREPA if it determines that propeller noise should also be regulated.

It is my opinion, therefore, that the noise limit provisions in section 80156 of the Natural Resources and Environmental Protection Act do not apply to noise produced by an airplane propeller on an airboat.

MIKE COX
Attorney General

OPINIONS OF THE ATTORNEY GENERAL

INCOMPATIBILITY: Holding dual offices as city attorney and
city council member of two different cities

The Incompatible Public Offices Act prohibits a person from simultaneously serving as a member of a city council of one city and as the city attorney for another where the two cities are parties to a contract.

Opinion No. 7125

February 20, 2003

Honorable Randy Richardville
State Representative
The Capitol
Lansing, Michigan

You have asked whether the Incompatible Public Offices Act permits a person to simultaneously serve as a member of a city council of one city and as the city attorney of another where the two cities are parties to a contract.

In the Incompatible Public Offices Act (Act), MCL 15.181 *et seq*, the Legislature has enacted a general prohibition against holding incompatible offices. Section 2 of the Act provides in relevant part that "a public officer or public employee shall not hold 2 or more incompatible offices at the same time." MCL 15.182. A "public officer" is defined to include a person who is elected or appointed to a public office of a city in this state or to a council of a city in this state. MCL 15.181(e).

You advise that your inquiry addresses the situation of a person serving on the Detroit City Council and as Ecorse City Attorney. Section 3-105 of the Detroit City Charter states that the elective officers of the city include the nine members comprising the city council. Section 9 of chapter VI of the Ecorse City Charter describes the city attorney among the city's appointive officers. See also OAG,

1987-1988, No 6418, p 15 (January 13, 1987) (treating the office of city attorney as a public office subject to the incompatibility provisions of MCL 15.182) and OAG, 1991-1992, No 6717, p 139 (April 7, 1992) (same). Thus, both the offices of city council member and of city attorney involved in your inquiry fall within the Act's definition of "public officer."

Whether these two positions are "incompatible" as defined in the Act requires consideration of section 1(b), MCL 151.181 (b), which defines "incompatible offices" as:

[P]ublic offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

- (i) The subordination of 1 public office to another.
- (ii) The supervision of 1 public office by another.
- (iii) A breach of duty of public office.

Recognizing that the Legislature used the undefined term "public official" in defining the phrase "incompatible offices" instead of the defined terms "public employee" and "public officer," the Michigan Supreme Court construed the phrase "public offices held by a public official" to encompass positions of public employment. *Macomb County Prosecuting Attorney v Murphy*, 464 Mich 149, 158-162; 627 NW2d 247 (2001). Thus, the positions of city council member and city attorney both are "public offices held by a public official" falling within the scope of the Act's proscriptions.

The analysis next proceeds to whether a person's performance of the duties of city council member of one city and city attorney of a second city results in any of the three situations prohibited under section 2 of the Act. There is no suggestion in the materials provided to this office that the two offices are either subordinate to one another or supervised by one another. The answer to your question

therefore turns on whether the performance of the duties of one of these offices results in a breach of duty of public office with regard to the other.

The Michigan Supreme Court has provided recent guidance in analyzing this issue consistent with numerous opinions issued by this office. In *Macomb County Prosecuting Attorney, supra*, the Court made clear that incompatibility under the Act "exists only when the performance of the duties of one of the public offices 'results in' one of the three prohibited situations." *Id.*, at 162-163, quoting OAG, 1979-1980, No 5626, p 537 (January 16, 1980). According to the Court, "the Legislature clearly restricted application of the statutory bar to situations in which the specified outcomes or consequences of a particular action actually occur." *Id.*, at 163. Incompatibility is not established where a breach of duty *may* occur or where there exists only the *potential* for a conflict. *Id.*

A breach of duty does arise, however, when a public official holding dual offices "cannot protect, advance, or promote the interest of both offices simultaneously." *Id.*, at 164. Determining whether a breach of duty exists requires examination into the duties and responsibilities of each of the dual offices held. OAG, 1993-1994, No 6791, p 121 (March 11, 1994). A public office is a public trust, and the courts have imposed a fiduciary standard upon public officials that requires disinterested conduct. OAG, 1997-1998, No 6931, p 5 (February 3, 1997), citing *Wilson v Highland Park City Council*, 284 Mich 96, 104; 278 NW 778 (1938). If anything arises that prevents a person holding dual offices from serving either of the offices with undivided loyalty, a breach of duty occurs and the offices are incompatible. OAG No 6931, at 7.

One circumstance presenting a clear incompatibility under these guiding principles is when a person is placed at both ends of a contract between the two governmental units served. *Macomb County*

Prosecuting Attorney, 464 Mich at 166. The degree of control exercised by the person in the situation presented is not determinative; rather, "the positioning of the two offices on opposite sides of a contractual relationship is the crucial factor." *Wayne County Prosecutor v Kinney*, 184 Mich App 681, 685; 458 NW2d 674 (1990), *lv den* 436 Mich 887 (1990). Where the two entities are parties to an existing contract or are negotiating toward the formation of a contract between them, incompatibility is clearly demonstrated and prohibited. *Macomb County Prosecuting Attorney*, 464 Mich at 165.

Moreover, a public official's abstention from the responsibilities of his or her office in order to avoid participating in the approval, amendment, or implementation of an agreement between the two public entities which he or she serves is itself a breach of duty. "Only vacation of one office will resolve the public official's dilemma." *Contesti v Attorney General*, 164 Mich App 271, 281; 416 NW 2d 410 (1987), *lv den* 430 Mich 893 (1988), *quoting with approval*, OAG, 1979-1980, No 5626, p 537, 545 (January 16, 1980).

Applying these authorities to the facts presented by your request, we first examine the office of city council member. We are advised through materials forwarded to this office that all the members of the Detroit City Council are involved in decisions that directly affect the water rates that will be paid by residents of the City of Ecorse, through an existing contractual arrangement between the City of Ecorse and the Detroit Water and Sewerage Department. As recently as February 2002, the Detroit City Council approved resolutions adjusting the rates to be charged suburban customers, including Ecorse, and your letter indicates that a public hearing was scheduled for February of this year on proposed water rates for the 2003-2004 fiscal year. While the subject contract does not include a provision specifying a particular methodology or formula for determining the rates that will be set, we are advised that, upon publication of the proposed rates for the coming fiscal year, the City's Water Department solicits

comments from each municipality affected. The municipality is provided an opportunity to contest certain aspects of the rate and adjustments may result from that process before the rates are presented to the City Council for approval.

In addition, clause 16 of the contract between the two cities provides that "all existing and future charter provisions and ordinances of the City of Detroit and pertaining to the supplying of water to suburban communities shall govern the same and be considered a part of this agreement." Thus, consideration of any such ordinance or charter provision by the Detroit City Council constitutes consideration of a revision of the contract with the City of Ecorse as well. The forwarded materials indicate that the Detroit City Council voted to approve a water bond ordinance as recently as Fall 2002. Finally, the existing term of the contract is for an "indefinite period of time," subject to termination upon one year's notice by either party or upon mutual consent.

Turning to the other of the dual offices at issue in your question, a municipal attorney's duties generally include acting as legal advisor to the municipality and representing the municipality in legal proceedings, but each city's charter must be examined to determine the authority actually conferred. The person serving as Ecorse City Attorney under that city's charter "shall act as legal advisor to and as attorney and counsel for the municipality and all its officers and departments in matters relating to their official duties." Ecorse City Charter, chapter VI, section 9, paragraph 1. In addition, the city attorney is required to conduct all the city's litigation and, of particular relevance to your question, "to prepare, or officially pass upon, all contracts . . . in which the City is concerned." *Id.*

Thus, as a member of the Detroit City Council and as Ecorse City Attorney under these circumstances, the person involved is plainly positioned on both sides of the contractual relationship

between the two cities described above giving rise to a prohibited incompatibility. When called upon to consider whether to approve or disapprove the rates to be charged residents of the City of Ecorse and when considering whether to adopt water-related ordinances that will become a part of the contract with Ecorse by operation of clause 16, the person who also serves as Ecorse City Attorney cannot simultaneously satisfy a fiduciary duty of loyalty owed to both cities. In addition, as long as the contract is in place and the rates continue to be subject to adjustment, questions necessarily arise regarding whether it continues to be in the best interests of the respective cities to continue the contract.

This conclusion is consistent with OAG No 6717, p 139, *supra*, in which it was determined that a person may not simultaneously serve as a member of a governing body of one unit of local government and as the attorney for a second unit of local government if the two units of government have entered into or are negotiating one or more contracts with one another.¹

Finally, it should be emphasized that a person's abstention from the responsibilities of his or her office does not serve to eliminate the incompatibility. *Contesti, supra*. A person cannot refrain from voting on a matter to avoid a breach of public duty or attempt through other less direct means to avoid the responsibilities that inhere in a given office.²

¹ As was also stated in OAG No 6717, this opinion does not address the extent to which the Michigan Rules of Professional Conduct may apply to any of the facts addressed in this opinion. Those questions are within the sole prerogative of the Michigan Supreme Court in the exercise of its constitutional authority to regulate the practice of law in this state and the State Bar of Michigan. *Id.*, at 142.

² For example, delegating the duties held by the office of city attorney to another or contracting out any part of the duties defined by charter as included within the position's responsibilities would not suffice to avoid an incompatibility. The only resolution of the "public official's dilemma" is vacating one of the offices. *Contesti*, 164 Mich App at 281.

It is my opinion, therefore, that the Incompatible Public Offices Act prohibits a person from simultaneously serving as a member of a city council of one city and as the city attorney for another where the two cities are parties to a contract.

MIKE COX
Attorney General

**ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2003 SESSION)**

Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”

Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”

**ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2003 SESSION)**

No enrolled senate and house bills have been signed into law or vetoed for the 2003 session. Therefore, Michigan Register 2003, MR 4 does not contain a table of enrolled senate and house bills.

MICHIGAN ADMINISTRATIVE CODE TABLE
(2003 SESSION)

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(i) Other official information considered necessary or appropriate by the office of regulatory reform.”

The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).

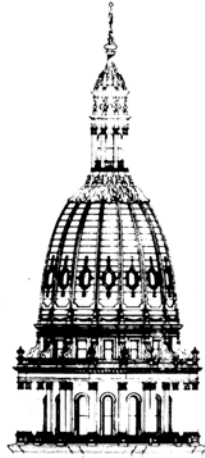
MICHIGAN ADMINISTRATIVE CODE TABLE
(2003 RULE FILINGS)

R Number	Action	2002 MR Issue	R Number	Action	2002 MR Issue	R Number	Action	2002 MR Issue
29.2801	*	1	324.41	N	2	325.10401a	A	2
29.2802	*	1	324.42	N	2	325.10402	*	2
29.2802a	A	1	324.43	N	2	325.10403	*	2
29.2803	*	1	324.51	N	2	325.10404	*	2
29.2804	*	1	324.52	N	2	325.10405	*	2
29.2805	*	1	324.53	N	2	325.10406	*	2
29.2806	*	1	324.54	N	2	325.10407	*	2
29.2807	*	1	324.55	N	2	325.10408	*	2
29.2807a	A	1	324.56	N	2	325.10408a	A	2
29.2808	*	1	324.57	N	2	325.10408b	A	2
29.2809	*	1	324.58	N	2	325.10409	*	2
29.2810	*	1	324.59	N	2	325.10411	*	2
29.2811	*	1	324.59a	N	2	325.10412	*	2
29.2811a	A	1	324.59b	N	2	325.10413	*	2
29.2812	*	1	324.59c	N	2	325.10414	*	2
29.2813	*	1	324.59d	N	2	325.10415	*	2
29.2814	*	1	324.59e	N	2	325.10416	*	2
259.241	*	4	324.61	N	2	325.10417	*	2
259.243	*	4	324.62	N	2	325.10418	*	2
259.244	*	4	324.63	N	2	325.10419	*	2
323.1171	*	1	324.64	N	2	325.10420	*	2
323.1172	*	1	324.65	N	2	325.10604a	*	2
323.1173	*	1	324.71	N	2	325.10605	*	2
323.1175	*	1	324.72	N	2	325.10610	A	2
323.1180	*	1	324.73	N	2	325.10610a	A	2
323.1181	*	1	324.74	N	2	325.10610b	A	2
323.1174	R	1	324.75	N	2	325.10610c	A	2
324.1	N	2	324.81	N	2	325.10611	A	2
324.2	N	2	325.10102	*	2	325.10611a	A	2
324.3	N	2	325.10103	*	2	325.10611b	A	2
324.21	N	2	325.10104	*	2	325.10702	*	2
324.22	N	2	325.10105	*	2	325.10704	*	2
324.23	N	2	325.10106	*	2	325.10706	*	2
324.24	N	2	325.10108	*	2	325.10707b	*	2
324.31	N	2	325.10109	*	2	325.10719	R	2
324.32	N	2	325.10308b	*	2	325.10719a	*	2
324.33	N	2	325.10401	*	2	325.10719d	*	2

(* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)

R Number	Action	2002 MR Issue	R Number	Action	2002 MR Issue	R Number	Action	2002 MR Issue
325.10719e	A	2	408.882	*	1	418.10902	A	4
325.10719f	A	2	408.885	*	1	418.10904	*	4
325.10720	*	2	408.886	*	1	418.10915	*	4
325.10720a	A	2	408.887	*	1	418.10916	*	4
325.10721	R	2	408.891	*	1	418.10922	*	4
325.11002d	*	2	408.898	A	1	418.10923	*	4
325.11004	R	2	408.41401	*	4	418.10924	R	4
325.11008	*	2	408.41405	A	4	418.10925	*	4
325.11009	R	2	408.41410	A	4	418.101002	*	4
325.11502	*	2	408.41454	R	4	418.101204	*	4
325.11503	R	2	408.41455	*	4	418.101206	*	4
325.11505a	*	2	408.41456	*	4	418.101501	*	4
325.11506	*	2	408.41461	*	4	418.101502	A	4
338.251	*	1	408.41462	*	4	418.101503	A	4
338.252	*	1	408.41463	*	4	418.101504	A	4
338.253	*	1	408.41464	*	4			
338.254	*	1	408.41465	*	4			
338.255	*	1	408.41466	*	4			
408.801	*	1	408.41467	*	4			
408.802	*	1	408.41471	*	4			
408.803	*	1	408.41472	*	4			
408.806	*	1	408.41474	*	4			
408.813	*	1	408.41475	*	4			
408.814	*	1	408.41476	*	4			
408.821	*	1	408.41477	*	4			
408.833	*	1	408.41478	*	4			
408.834	*	1	408.41479	*	4			
408.837	*	1	408.41481	*	4			
408.838	*	1	408.41483	*	4			
408.839a	*	1	418.10104	*	4			
408.841	*	1	418.10105	*	4			
408.843	*	1	418.10106	*	4			
408.844	*	1	418.10107	*	4			
408.852	*	1	418.10108	*	4			
408.876	*	1	418.10116	*	4			
408.876	R	1	418.10117	*	4			
408.877	*	1	418.10121	*	4			
408.881	*	1	418.10202	*	4			

(* Amendment to Rule, A Added Rule, N New Rule, R Rescinded Rule)



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